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The Solicitors' Journal

[Established 1857.] [Registered as a Newspaper.]

VOL. LXXVIII. No. 50 [Pages 885 to 904]. **Saturday, December 15, 1934.** Published Weekly. Price One Shilling.

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The Solicitors' Journal

VOL. LXXVIII. **Saturday, December 15, 1934.** No. 50

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Current Topics.

Lord Buckmaster and Law Reform.

PROBABLY no two great lawyers could be more dissimilar in their outlook than Baron PARKE and the late Lord BUCKMASTER. The former, who might be regarded as the very embodiment of the common law, looked upon any change proposed in its structure as unwarrantable, indeed, as almost a profane thing. Demurrers were the very breath of his life. Did he not on one occasion take what he called a "beautiful demurrer" to the bedside of a sick friend to cheer him in his loneliness? Some might even apply to him the epithet which MATTHEW ARNOLD applied to Professor FREEMAN, namely, "a ferocious pedent." In saying this, we do not, of course, mean to imply that the Baron was not a very great judge, but it indicates his general outlook which was very different from that of those who, admiring our system of law, would, nevertheless, hesitate to claim for it flawlessness. Certainly, the late Lord BUCKMASTER'S outlook differed greatly from that of PARKE, in seeing that English law in many of its branches was susceptible of vast improvement. As he once said, in addressing the House of Lords, "I tell you frankly that I would as soon worship a gargoyle on the Cathedral of Notre Dame because it happened to be part of the sacred edifice, as I would pay the least respect to some vicious and distorted anachronism because it happens to be part of the stately fabric of the law." During his life he made many efforts to effect improvements as he deemed them; to some of these, it may be, others would hesitate to give a whole-hearted assent, but the very fact that he brought them forward showed his interest in, and desire for, reform to bring the law more into line with modern thought.

Shorthand Notes Again.

WITH striking periodicity, the question, whether the cost of the transcript of the shorthand notes of the evidence taken at the trial of an action should be allowed against the losing party, comes before the Court of Appeal. It is well known that the late Lord Justice SCRUTTON set his face sternly against anything which increased the costs of an appeal, and he was inexorable in his refusal to allow the expense of a transcript to enhance the costs. In a case before the Court of Appeal last week, when the usual application for the cost of the transcript was made, Lord Justice GREER, who now presides in Court of Appeal No. II, referred to this attitude of the late Lord Justice, and said that, although personally he did not share that view, the practice had become inveterate, and consequently the application, which otherwise seemed reasonable in the particular circumstances, was refused. The underlying reason for this attitude of the Court of Appeal is that the notes taken by the judge at the trial provide sufficient material upon which the case can be disposed of. Sometimes they are, and, perhaps, more often they are not; but, surely it is a little hard on the trial judge, whose function is not to be a longhand writer for the benefit of the party who may desire to appeal from his decision, but to watch carefully the demeanour of the witnesses and only take such notes as will serve to remind him of the salient parts of the evidence and thus enable him to give judgment, or, if there happens to be a jury, to enable him to direct its members. One of the much-needed reforms in legal administration is the institution in each court of an official shorthand writer, whose business it would be to supply, on reasonable terms, the parties with a transcript. An official shorthand writer, we understand, is attached to the Admiralty Division; he should be in every court where evidence is adduced.

New Legislative Proposals.

THE Matrimonial Causes (Amended Procedure) Bill provides, *inter alia*, that in proceedings in courts of summary jurisdiction relating to domestic differences between husband and wife there shall be an information deposed to by the complainant or applicant setting forth particulars of the matters alleged and intended to be relied upon, and that before a public hearing the court shall consider whether, in the light of the foregoing information, it will be well to hear the parties in private with a view to settlement of the matters in question by mutual consent. The parties may be directed to appear before the court to be heard in private, and other machinery is provided for the settlement, if possible, of matrimonial differences. The Bill would also, in certain cases, invest the courts with a discretionary authority to direct that while evidence is being given no persons other than the parties, their professional representatives and the witnesses under examination shall be present. The Matrimonial Causes (Procedure for Nullity) Bill provides that in any cause in the High Court in England wherein a decree of nullity of marriage is prayed on the ground of the impotence of one of the parties, the evidence on the question shall be heard *in camera* unless the judge is satisfied that in the interests of justice the evidence ought to be heard in open court and, on an application, makes directions to that effect. Section 4 of the Supreme Court of Judicature (Amendment) Bill is to similar effect. Section 1 provides that the number of puisne judges who may be

attached to the King's Bench Division of the High Court shall be increased to nineteen, suitable amendments of the principal Act being proposed to this end. Section 2 provides that the Lord Chancellor may appoint one of the Lords Justices of Appeal to be Vice-President of the Court of Appeal to preside when acting and sitting in any division of that court if no *ex-officio* judge of the court is sitting in that division.

Judicature Bill before Parliament.

STRONG exception was taken by the Lord Chief Justice to the proposals contained in ss. 1 and 2 of the Supreme Court of Judicature (Amendment) Bill last Tuesday when the second reading was moved in the House of Lords. The debate was adjourned and, in order that the matter might not stand over until after the Christmas recess, it was intimated on Wednesday that the debate would be resumed on Friday afternoon. At the time of going to press no particulars relating to this sitting are available.

National Farmers' Union on Tithe Rent-charge.

INTERESTING evidence was submitted at a recent public sitting of the Royal Commission on Tithe Rent-charge at Sanctuary Buildings, Westminster, on behalf of the National Farmers' Union, which pressed for the repeal of the provisions of the Tithe Act, 1925, permanently stabilising the value of £100 tithe rent-charge at £105. The union submitted that the sum payable in respect of tithe rent-charge should be a variable amount based upon the prices of wheat, barley and oats prevailing in the penultimate year to the year in respect of which such payment was due. The introduction of amending legislation was advocated to provide (*a*) that on the sale of any agricultural land the vendor should be bound to disclose to the purchaser the existence of any tithe rent-charge upon the land, (*b*) that in any case where land subject to tithe became vested in the rent-charge owner the rent-charge should merge, and (*c*) that where, for the purposes of sale of land or otherwise, an informal apportionment of tithe had been made with the owner, such apportionment should have legal effect. If the Commission concluded that the principle of compulsory redemption was to be maintained, the Act of 1925 should be altered so as to give recognition to the fact that tithe-owners are willing sellers and tithe-payers unwilling buyers and the present method of collection by Queen Anne's Bounty should be abolished. The ill-effects upon the relations between clergy and parishioners attributable to the payment of ecclesiastical tithe was alluded to. The necessary advances should be made by the State or by means of a loan raised by the Agricultural Mortgage Corporation suitably invested with statutory authority for the purpose. Repayment should be effected by annuities spread over a period of some fifty years. The capital sum payable to Queen Anne's Bounty should not be calculated by reference to the stabilised figure of £105, but by reference to the capital sum which was likely to be produced by the present sinking fund charge at the end of the statutory period. The evidence concluded by a statement to the effect that any scheme of compulsory redemption should provide for the redemption of lay tithe on very favourable terms to the tithe-payer.

Preservation of Records.

THE report of the Second Annual Meeting and Conference of the British Records Association, which appeared in our issue of 17th November, indicates the valuable work which is being done to rescue from oblivion matter of inestimable worth from the view-point of reconstructing the past. The subjects range over a field wider than that of which the Public Records Office takes cognisance. Lord HANWORTH, in the course of his presidential address, alluded to records which arise in public local administration, semi-public institutions, educational and charitable foundations, and the City companies, and to the matter illustrative of financial and social questions to be found in the archives of the great business houses. The preservation of manorial documents is provided for by s. 144A, inserted in the Law of Property Act, 1922, by s. 2 and the Second Schedule to the Law of Property (Amendment) Act, 1924. These—which include court rolls, surveys, maps, terriers, documents and books of every description relating to boundaries, franchises, wastes, customs or courts of a manor but not the deeds and other instruments required for evidencing the title to a manor—are under the charge and superintendence of the Master of the Rolls, who is empowered to take measures to see they are in proper custody and may, where they are not being properly preserved or, at the request of the lord of the manor, direct their transfer to the Public Records Office, a public library or museum, or to an historical or antiquarian society. The Manorial Documents Rules, 1926 (S.R. & O., 1925, No. 1310), have been made under the power conferred on the Master of the Rolls by the same section. A recent correspondent to *The Times* suggested that documents no longer required for the proof of title should be presented to or lent on " permanent loan " to the county reference library or record society in the appropriate district. He, himself, has been the means within the last forty years of preventing hundreds of deeds from being dispersed or made into size. Lawyers, he urges, should advise clients to act as outlined above, and similar measures should be taken when a firm of lawyers cease to exist or if, through changes among the partners, it cannot be found to whom old deeds belong. The preservation of ecclesiastical documents in which the Canterbury and York Society have been engaged for thirty years is another, and, perhaps, the most illuminating branch of the same activity, while the valuable work performed by the Pipe Roll, the Selden and other similar societies, should be remembered in this connection.

The Provision of Houses.

THE Ministry of Health issued recently the first of a projected series of regular returns indicating the progress made in the provision of houses, including those built for the replacement of slum dwellings. The report, which covers various periods up to 30th September last, indicates that nearly two and a half million houses have been erected since the Armistice, the proportion of private and State-aided dwellings being in the neighbourhood of two to one. More than 134,000 houses were built by private enterprise during the six months prior to the date above mentioned, the figure of 254,934 for the year showing an increase of 53 per cent. over the previous year's total and 95 per cent. over the totals of 1931 and 1932. Since the Housing (Rural Workers) Acts, 1926 and 1931, came into force the number of applications made to local authorities thereunder amounts to 13,126, of which over 1,500 were made during the last six months with which the report deals. For the same period more than 23,000 houses were demolished in clearance and improvement areas as a result of resolutions passed, the total of such demolitions being some 50,000 more. The number of dwellings completed for the 325,809 persons displaced as a result of demolitions during the same six-monthly period was 26,926, and a further 19,301 were under construction. The part of the annual report of the Ministry of Health for 1933-1934 which deals with housing has been published separately to meet the requirements of the general public (Stationery Office, price 1s.).

More Motor Law.

THE Public Service Vehicles (Drivers and Conductors Licences) Regulations, 1934, which have been made by the Ministry of Transport, will come into force on 1st January, 1935, and supersede the provisional regulations made in 1931. Some modifications have been necessitated by the provisions of the Road Traffic Act, 1934, others have been dictated by experience. It is intimated, also, that the Minister of Transport intends to make regulations relating to the new

vocational licences for drivers of heavy goods vehicles under the Act of 1934, on lines similar to those in force with regard to drivers of public service vehicles. On proof of six months' experience of driving a heavy goods vehicle during the year ended 1st April, 1934, an applicant may obtain such a licence as of right on payment of the prescribed fee of 1s. Others may be required to satisfy the Traffic Commissioners as to their knowledge of the Highway Code and their practical ability to drive a heavy goods vehicle, and they must be able to read, write and sign a declaration of their physical fitness. In answer to a recent question in the House of Commons asking if he was aware of the inadequate lighting of registration plates on practically all motor vehicles, and if he would take steps to make compulsory the use of plates providing for the illuminant showing through opaque letters and numbers adequate to permit of identification of a fast-moving vehicle, the Minister of Transport agreed that many of the plates were very difficult to read at night, and stated that he had already asked the Committee on Road Safety to consider and to report to him on the whole matter. Another aspect of night driving, the problem of headlight dazzle, was the subject of a recent investigation by the Automobile Association. Observations conducted by the night patrol service over a period of a week at the beginning of November indicated that some 88 per cent. of drivers made some attempt to avoid dazzling drivers of other vehicles. One or other of the two most effective methods—switching off the offside headlight and dimming or dipping the near-side light, or switching off, dimming or dipping both head-lights—was utilised by exactly one-half of the drivers observed. The other 38 per cent. of drivers who made some effort to reduce dazzle switched off one light only, 29 per cent. extinguishing the off-side and 9 per cent. the near-side light. The latter practice is, it is stated, of very slight value in this connection.

Highway Development in Greater London.

In the course of a recent statement by Mr. C. H. Bressey, who is to vacate his position as Chief Engineer of the Roads Department of the Ministry of Transport, in order to devote his whole time to his new duties of preparing, with Sir Edwin Lutyens, as consultant, a highway development plan for Greater London, it was intimated that the first task would be to collect and examine all the available data regarding schemes which had been prepared in the past and left incomplete or never begun. More ample information regarding traffic movements in the area in question is required and to that end a traffic census is to be taken in July or August next year, while it is probable that a simultaneous census will be taken in Inner London by Scotland Yard. It is intended to obtain by the new census more exhaustive information than has been furnished by any similar measure conducted in the past—the particulars desired ranging over the classes of vehicles, their origin and destination, so far as these can be collected without causing undue obstruction. These investigations are not, it appears, to interfere with the immediate putting in hand of schemes the desirability of which is unquestioned. Interim reports are to be presented from time to time, and as soon as any particular investigation is concluded, it will be for the Minister of Transport to decide what action shall be taken. Among the points to be considered is the desirability of providing roads supported on steel columns over existing railway tracks. Such a scheme was proposed recently by a group of members of the House of Commons headed by Mr. Oliver Simmons. Overways, it is urged, would lead to a reduction of road fatalities, with a speeding up of road transport entering and leaving cities, the streets of which would be relieved of traffic they are unable to bear. Moreover, no purchase of land or property would be required except for the ramps, although arrangements would have to be made with the railway companies and—it may be added—some rights of light might be infringed. It is suggested also that the property near an overway being, as it is, already near a railway would not be depreciated, ribbon development would be impossible and the cost would be low. That such a project would be attended by certain disadvantages is undeniable. It does, however, offer the prospect of a solution to the difficulty: as such, it is worthy of careful consideration and much to be preferred to measures restricting the use of roads giving access to the metropolis which would be equivalent to giving up the problem as insoluble.

Unemployment Assistance.

The draft regulations for the administration of unemployment assistance which have been prepared by the Unemployment Assistance Board and confirmed by the Minister of Labour were issued last Tuesday, together with an explanatory White Paper (Cmd. 4765, Stationery Office, 2d.). The scheme extends to about 17,000,000 persons and includes agricultural workers, domestic servants and non-manual workers with incomes when in employment below £250 per annum. The grant of an allowance under the Unemployment Assistance Act, 1934, is, of course, conditional upon the need of the applicant and those dependent upon him. It would be out of place to treat of the regulations here in detail, but it may be noted that they provide for a sliding scale of children's allowances and also for a sliding scale of rent allowance. A scale of relief is given in Part I, where an application is made by a person living as a member of a household consisting of two or more persons, and in Part II, where the applicant is living alone. The needs of an applicant will be determined in the light of a provisional assessment and of the computation of his available resources, but it is expressly provided that an applicant "shall not be deemed to be or not to be in need of an allowance (as the case may be) by reason only of the fact that his available resources are less or greater than the amount at which his needs would be so assessed unless the amount by which they are less or greater is substantial when considered in relation to all the circumstances of the case." The Minister of Labour will move a resolution on Monday, asking the House of Commons to approve the Regulations.

Recent Cases.

Among recent decisions may be mentioned that of the Court of Appeal in *Re Dickens: Dickens* v. *Hawksley* (reported at p. 898 of this issue) in which a decision of Bennett, J., to the effect that a bequest of "all my private papers whatsoever and wheresoever" embraced the manuscript of a work generally known as "The Life of Christ," but did not operate to pass the copyright therein was upheld. The learned judge held also that the proceeds of the sale of the copyright ought to be held on the trusts applicable to the residue which had in terms included "my copyrights," but the Court of Appeal varied the order on the ground that it seemed fair and equitable to divide the money equally between the residuary estate of the testator and the estate of Georgina Hogarth, to whom the private papers had been bequeathed. The sale of the copyright had been effected by Lady Dickens, widow of Sir Henry Dickens, and executrix and trustee of the will of Charles Dickens and of the will of his sister-in-law Georgina Hogarth, and one moiety was attributed to each capacity under which she was enabled to sell and to receive the purchase price.

In *De Pret-Roose* v. *De Pret-Roose* (*The Times*, 6th December) where it was held that a wife had failed to prove that her signature to a deed of separation had been obtained by duress and undue influence of her husband, Bennett, J., referred to *Cooper* v. *Crane* [1891] P. 369, and observed that the question which he had to consider was whether, when the plaintiff placed her signature to the deed, her powers of volition were so paralysed that by her words and acts she merely gave expression to the will of the defendant, not to her own will. The plaintiff had in fact been advised throughout by a solicitor, and had not established that her will had been thus paralysed.

What is a "Mercantile Agent"?

THE Factors Acts, which have been passed from time to time and finally stand in the form of the Factors Act, 1889, deal with the powers of factors or other mercantile agents entrusted with the possession of goods or documents of title to goods. The general effect of the earlier Acts is well summed up by Blackburn, J., in *Cole* v. *North Western Bank* (1875), L.R. 10 C.P. 354, at p. 372. The Act of 1889 begins as follows :—

" 1.—(1) Definitions—Mercantile agent. For the purposes of this Act—The expression ' Mercantile agent ' shall mean a mercantile agent having in the customary course of his business as such agent authority either to sell goods, or to consign goods for the purpose of sale, or to buy goods or to raise money on the security of goods."

The later sections give various powers to the mercantile agent and lay down various results which are to follow from his actions. The nature of mercantile agency has been quite frequently considered by the courts. It is proposed to show how the words came to be included in the 1889 Act, and then to refer to a number of later cases, in order to show the construction given to the words in the Act.

The definition quoted above was introduced by the Act, but was mainly declaratory of the construction given to the repealed Acts, a construction gradually extended by the courts : see " Chalmers' Sale of Goods," 11th Ed. 172. This is, of course, the usual process by which statutory provisions are kept alive and adapted to the perpetual change of commercial conditions. The term used in the earlier Acts was " person " or " agent." This had however come to be applied only to agents acting in commercial or mercantile transactions. Thus in *Cole* v. *North Western Bank, supra,* Blackburn, J., in the course of his most instructive judgment, quotes, at p. 373, the words of Willes, J., in *Heyman* v. *Flewker,* 13 C.B. (N.S.) 519 ; 32 L.J. (C.P.) 132, where he says : " . . . the term ' agent ' does not include a mere servant or caretaker, or one who has possession of goods for carriage, safe custody, or otherwise as an independent contracting party ; but only persons whose employment corresponds to that of some known kind of commercial agent like that class (factors) from which the Act has taken its name."

In *City Bank* v. *Barrow* (1880), 5 App. Cas. 664, Lord Blackburn (as he had then become) refers (at p. 678) to the above cases, and says that : " . . . an agent who can pledge or sell must be an agent of that class which, like factors . . . have a business, which, when carried to its legitimate result, would properly end in selling or in receiving payment for goods. That would be a kind of class ; factors and agents, in the class of factors. If such a person is ' entrusted,' and is entrusted in that capacity, then, in the absence of bad faith on the part of the pledgee, the pledge is good." Such, therefore, was the state of the law before the Act of 1889, which must clearly, to declare the law, add some limiting adjective to " agent " such as " commercial " or "mercantile."

Turning to the cases decided upon the Act, we find in *Oppenheimer* v. *Frazer* [1907] 2 K.B. 50, that a diamond broker, who received diamonds from a diamond merchant on the strength of a fraudulent statement by the broker that he had as prospective customers two named firms in the diamond trade, was held by the Court of Appeal to be a mercantile agent and also to be acting in the ordinary course of his business in delivering the diamonds to some other person for sale. Indeed, the question was not argued in that court. Another case arose out of the activities of the same broker, namely, *Oppenheimer* v. *Attenborough & Son* [1908] 1 K.B. 221, where Lord Alverstone, C.J., said in the Court of Appeal (at p. 226) : " There are many kinds of agents who receive possession of goods, such, for instance, as carriers, and yet it is no part of the customary course of business of such agents to sell them or consign them for sale or raise money on them. Therefore, when you are dealing with an agent in possession of goods, you have, no doubt, to consider what kind of agent he is, and what his customary course of business would be when he is acting in the capacity of agent . . . It seems to me that there may be particular agents such as auctioneers, with regard to whom a pledge by them of goods entrusted to them would be such a departure from the ordinary course of their business as to put the pledgee upon notice." Lord Alverstone then cites *Lamb* v. *Attenborough,* 31 L.J., Q.B. 41, in which Blackburn, J., said : " The agent contemplated by the statute (the Factors Act, 1842) is an agent having mercantile possession, so as to be within the mercantile usage of getting advances made."

The other judges, though in different language, agreed with these definitions.

In *Hastings* v. *Pearson* [1893] 1 Q.B. 62, to which Lord Alverstone also referred, a man employed at a salary of 30s. per week and a commission to take small articles of jewellery to private houses to sell and who pawned them instead, was held not to be a mercantile agent, Mathew, J., observing that there was no such business as that of an agent to pledge with pawnbrokers small articles of jewellery for the purpose of raising money for the employer of the agent. Lord Alverstone remarked that it might be possible to take another view of the facts, and in *Weiner* v. *Harris* [1910] 1 K.B. 285, the Court of Appeal unanimously overruled *Hastings* v. *Pearson, supra,* and held that a retail jeweller who received goods from a wholesale jeweller to sell on commission and thereafter pledged them was a mercantile agent.

In *Lowther* v. *Harris* [1927] 1 K.B. 393, it was sought to say that an agent who acted for one principal only was not a mercantile agent. The agent was an art dealer with a shop of his own employed by the owner of certain furniture to sell it at other premises to customers who knew nothing of the owner's existence. The agent had no authority to complete a sale without the owner's consent. It was contended that the agent was a mere servant or shopman and that he had no independent status such as was essential to constitute a mercantile agent, and the earlier cases cited above were referred to. But Wright, J. (as he then was), rejected this contention (at p. 398), holding that the agent, who transacted business at his own shop in addition to working for the owner, was not a mere servant, though, had he been, the Act would not have applied. The learned judge also took the view that the fact of acting for one principal only made no difference. He pointed out that this was decided in *Heyman* v. *Flewker, supra,* and that in *Hastings* v. *Pearson* and *Weiner* v. *Harris, supra,* there was no evidence of more than one principal. He also pointed out that pictures, as objects of purchase and sale, constituted those who dealt in them on commission mercantile agents : *Heyman* v. *Flewker, supra ; Turner* v. *Sampson,* 27 T.L.R. 200.

In *London Jewellers Ltd.* v. *Attenborough* [1934] 2 K.B. 206 (78 SOL. J. 413), a man represented to the plaintiffs that he could sell certain of their goods to actresses and thus obtained possession of jewellery which, as he had intended all along, he immediately handed to one or other of three or four women who pawned the jewellery in her own name. Swift, J., held that the man was not a mercantile agent, but was merely disguising himself as one for the purpose of getting the jewellery. Though his decision was overruled by the Court of Appeal on other grounds, this point was conceded, with the approval of Scrutton, L.J.

Finally, in the recent case of *Budberg* v. *Jerwood & Ward* (78 SOL. J. 878), Macnaghten, J., had to decide, among other points, whether the term could be applied to an exiled Russian lawyer who had settled in London and practised there as a legal adviser to Russian refugees. To him the plaintiff had entrusted a necklace, doing so as a friend and desiring him to get offers for it and submit them to her. No remuneration was contemplated. In fact the lawyer retained the necklace for some time and then pawned it. It was sought to say

that though this was the only transaction of this kind that the lawyer had carried out, *Lowther* v. *Harris*, *supra*, made it clear that that fact alone did not prevent mercantile agency arising, and that the transaction was done by him in a business capacity. But Macnaghten, J., took the view that the transaction was merely between friends and that there was no mercantile agency. It must also be pointed out that in the former case there were several transactions, though only one principal. The facts bear a close resemblance to those in *Lowther* v. *Harris*, *supra*, but the absence of remuneration and the fact that it is not usually part of a lawyer's profession to deal in jewellery would seem clearly to distinguish the two cases.

There are, of course, other classes of mercantile agents besides those referred to above. Brokers, for example, are of many kinds, and their functions are fully discussed by Brett, J., in *Fowler* v. *Hollins*, L.R. 7 Q.B. 616, at p. 623. But enough has been said, it is hoped, to indicate the principles upon which the courts act when construing these words, apparently so simple, and yet productive of a considerable body of litigation.

The Commercial List.

THE vigorous protest by Mr. Justice Talbot on 7th December against taking part in any arrangement under which cases in the Commercial List are tried by a judge not specially skilled in commercial cases will find a sympathetic echo in quarters where the importance of practical experience of commercial work is realised. His lordship characterised such an arrangement as "a fraud on an important class of litigants" and "a serious public mischief," and many will agree that his remarks were by no means too strong. It is almost superfluous to say that Mr. Justice Talbot is a judge who both merits and has complete public confidence, and that his statements both on law and on practice command the greatest measure of respect.

In the earlier part of the nineteenth century the growing detachment of the courts from the practical needs of commerce led to a demand for thorough reforms, particularly in the direction of making the courts more attractive as a means of settling business disputes.

In the Third Report of the Judicature Commissioners on 1st January, 1874, it was suggested that judges in commercial cases should sit with skilled assessors. The Commissioners said: "We are fully alive to the inconveniences that do undoubtedly arise from the want of adequate technical knowledge in the court which has to adjudicate upon cases of a commercial character."

The cause of complaint was not removed by the Judicature Acts, 1873-1875, so far as commercial matters were concerned. Recommendations were subsequently made that a list of commercial cases should be created, to be tried by specially selected judges, but there was some opposition, principally from Lord Coleridge, C.J. Lord Coleridge died in 1894, and in 1895 a committee formed from the body of Queen's Bench judges issued a Notice under which the Commercial List was constituted.

The Notice contains a definition of commercial causes, but the definition is not intended to be exhaustive, and the judge in charge of the list has a discretion. Commercial causes are stated to include "causes arising out of the ordinary transactions of merchants and traders; amongst others, those relating to the construction of mercantile documents, export or import of merchandise, affreightment, insurance, banking and mercantile agency, and mercantile usages."

It must be observed that the Notice does not create either a new court or new Rules of Court, but existing rules such as Ord. 19, r. 2 (for the purpose of obtaining brevity in pleading), and Ord. 32, rr. 1-6 (for the purpose of utilising admissions of fact), are used in order to achieve a simpler procedure. In *Baerlein* v. *Chartered Mercantile Bank* [1895] 2 Ch. 491, Lindley, L.J., stressed that the Commercial Court was "a mere piece of convenience in the arrangement of business." In the same case Lopes, L.J., referred to the fact that the judge selected to preside in the Commercial Court was chosen because he had special knowledge with regard to commercial cases. Lord Esher, M.R., in *Barry* v. *Peruvian Corporation* [1896] 1 Q.B. 208, also stressed that the Notice did not alter the laws of evidence or the legal effect of any procedure and that "for the benefit of suitors it had been arranged that on the application of either party a commercial cause may be put on a separate list, so as to be in train to be tried before one of several judges."

In *Butcher Wetherly & Co.* v. *Norman* [1934] 1 K.B. 475 (see also 78 SOL. J. 1) in which the Court of Appeal held that a litigant was entitled to have a case transferred from the New Procedure List to the Commercial List, the late Lord Justice Scrutton emphasised that the Commercial List was established "in order that commercial causes might be dealt with by judges specially conversant with commercial matters" and gave as an analogy the fact that if he were invited to decide a question of conveyancing he might reveal a good deal of unfamiliarity with the subject, simply because his practice had not lain in that direction.

There can be little doubt that it has always been the practice to assign judges of special commercial experience to the commercial list, and it may well be that if circuit requirements are withdrawing commercial judges from London, circuits will have to be drastically revised to prevent this unfortunate state of affairs. The Commercial Court has behind it a record of useful and expeditious work in the service of the mercantile community, and it is essential if it is to retain its popularity that the objects for which it was originally founded should continue to be kept in view.

Trustee Securities.

A CORRESPONDENT writes in reference to a "Current Topic" on this subject which appeared in our issue of 10th November: "Your paragraph is directed mainly to the subject of private trusts under wills and settlements. The reason I and others are anxious that the subject should be investigated is that bodies corporate, such as universities, hospitals, charities of all kinds and local authorities, are relatively in the position of trustees for themselves and their successors, and as a rule are without any powers of investment other than the statutes affecting them. Thus men of the highest calibre are prevented from taking advantage of their financial skill in selecting investments from a wider range than those now available. Really, in nine cases out of ten I do not imagine the Act affects private settlors nowadays at all. . . . Were Parliament initiating legislation for the first time to-day, is it seriously suggested that they would put the debenture stocks of the leading railways, whose interest is covered several times over, in the same class as non-cumulative preference stocks, which are not earning their keep? And why, because a railway nine years ago suffered from a colossal upheaval due to causes entirely outside its control, should it be prejudiced for the next ten years by an event almost prehistoric in financial chronology?" In a letter published in *The Times* about a month earlier the same writer alludes to various anomalies (subsequently mentioned by *The Times* leader-writer in the course of the article referred to in our Topic) under the existing system, and suggests that the matter should be dealt with by a Standing Committee "somewhat on the following lines." A membership of seventeen is suggested, comprising two each from the Treasury, the Banks, the Stock Exchange (a dealer and a broker), the Insurance Companies, and the Charity Commissioners and Universities, and one member each from

the following: the Court, the Bank of England, the Bar Council, The Law Society, the Association of Municipal Corporations, Investment and Financial Trust Companies. The Public Trustee would also be a member. "Such a body," we quote from the letter to *The Times*, "should make a yearly review, and, with stringent regulations as to requirements for obtaining statutory status, would put a premium on sound finance by aspirants to the immensely valuable privilege, the subsequent loss of which would be a warning to those responsible. Such a committee would have the confidence of all who have the handling of trust funds." The writer does not forget that the court can make rules, "and, in fact, has done so to a very small extent, varying downwards part of the list in the Act of 1925. But" (the letter goes on), "the court is very fully occupied in administering to the needs of suitors, and constant attention to the problem, by those immersed in finance, of the world's ever-varying conditions is essential, and Parliament is the last body to be troubled with so intricate a matter." Our correspondent's views, which reflect a large body of responsible opinion, may perhaps be stated in two propositions: (*a*) the scope of investments available for trustees should be widened; (*b*) the existing machinery for determining trustee status being too inelastic to enable the realities of the financial world and investors of this kind to be brought into contact should be altered and the final arbiter in such matters should be a panel of experts containing a strong financial representation alive to the ever-changing factors which make for sound and profitable investment. Though the second proposition is usually treated as a corollary of the first, it is capable of standing alone and each deserves separate treatment. Taking the second proposition first, we frankly distrust the removal of or delegation of Parliament's powers to a committee. We are not satisfied that a committee of the kind envisaged would be the best qualified to give advice of the kind required, i.e., when the *desiderata* are permanence of income and security of capital rather than profitable investment. In the light of these overriding considerations we are unmoved by the fact that trustees may in some cases be unable to profit by the current financial position and think that the present system of a fixed list of securities or qualifications for trustee status defined by the Legislature and variable by rule has much to recommend it.

Nor, having regard to the foregoing principles, can it be said that the courts from pressure of work, or Parliament from the intricacy of the matter, are prevented from exercising efficiently their respective functions. Moreover, a trustee's task would not be rendered easier by constant additions and exclusions from the list of legitimate investments based on a yearly review of the fiscal situation. Again, it is not improbable that a committee of the kind suggested could only operate effectively by what may be described as the legal element in its composition gaining the ascendancy, or the financial. An equal conflict between the two would render it sterile. If the legal element prevailed the position would probably not differ materially from that obtaining at present; if the financial element prevailed, it is doubtful if existing safeguards would be adequately preserved. This point may be illustrated by *Re Blundell* [1901] 2 Ch. 221, where the court refused to release a restraint from anticipation in regard to a fund in court belonging to a married woman in order that the fund might be dealt with in accordance with the provisions of a wider investment clause in her marriage settlement. Evidence was tendered indicating how the money could be more advantageously invested within the scope of that clause, a list of securities being shown, but the court, while in no way challenging the soundness of the various items in the list or the high standing and integrity of the stockbrokers responsible for its preparation, declined to allow the change as a "benefit" to the married woman within s. 39 of the Conveyancing Act, 1881 (see now s. 169 of the Law of Property Act, 1925). The judgments make it clear that the motive underlying the refusal was the sacrifice of safety—slight though it might be—involved in the proposed change. "Has the lady made out," Collins, L.J., said, "that such a change of investments would be for her benefit? It seems to me that the benefit to her of thereby obtaining a larger income would be bought at the expense of a greater risk to the capital; and I cannot say that the material before us with regard to the investments submitted through the brokers—though, no doubt, they are gentlemen of high standing and respectability—and even taking their view as to the securities which they mention, afford sufficient evidence to warrant me in saying that a change of investments such as she wishes would be for the benefit of the lady."

It is just this adherence to the safest possible form of investment which suggests the desirability of curtailing rather than widening the trustee list. A testator or settlor should, if he wishes, be able to tie up property in as secure a manner as circumstances can ever permit. This can only be done if there is a list comprising only first-rate investments providing, in addition to a fixed income, the utmost guarantee against loss and the existence of this notion of security is, in our view, of equal value whether private or public trusts are in question.

Company Law and Practice.

Voting—II.

Last week I dealt with certain aspects of the law relating to voting; this week I want to continue the examination of voting. At the close of last week's article I was discussing proxies, and it was pointed out that at common law there was no right of voting by proxy, and that if voting by proxy was allowed, the authority for it must be found in the articles. Almost invariably the power of voting by proxy is conferred on those members who have a right to vote: thus, Art. 58 of Table A says that on a poll votes may be given either personally or by proxy. There might be cases where votes could be given by proxy on a show of hands, but these cannot be anything other than rare, and practical difficulty might arise; in a case where a proxy must be a member he could never vote on a show of hands if the member appointed a proxy actually had a vote himself, because each person present can have one vote only on a show of hands.

Forms of proxy do not vary very much in substance; but it should not be forgotten that a general form of proxy, i.e., one to vote at any number of meetings, requires a 10s. stamp. In order that there may be some effectual check with regard to proxies, it is common practice to require proxies to be deposited with the company some specified time before the meeting at which they are to be used; Table A provides (by cl. 60) that they shall be deposited at the registered office of the company not less than forty-eight hours before the time for holding the meeting or adjourned meeting, and if not so deposited, the proxy is not to be treated as valid. Many people prefer to shorten that time from forty-eight hours, and one quite frequently finds that a deposit before the meeting is sufficient.

The holding of the adjourned meeting has to be specifically referred to in an article, such as cl. 60 of Table A, because if the reference is only to the meeting, and the meeting is adjourned, a proxy deposited after the meeting, but in the appropriate time before the adjourned meeting, cannot be treated as valid so as to be used on the adjournment of the meeting (*McLaren* v. *Thomson* [1917] 2 Ch. 261). Further, even under an article such as Art. 60 of Table A, referring to deposit before "the meeting or adjourned meeting," a proxy cannot be lodged after the meeting so as to be used on a poll demanded at the meeting, and directed to be held at a future date (*Shaw* v. *Tate Concessions Limited* [1913] 1 Ch. 292), for the poll is not an adjournment of the meeting, but, apparently, a continuation of it.

This is illustrated by the decision in *Spiller* v. *Mayo (Rhodesia) Development Co. Limited* [1926] W.N. 78, where the articles provided that a proxy should be valid notwithstanding the death of the principal or the revocation of the proxy unless notice of the death or revocation was received at the registered office before the meeting. Here it was sought to revoke a proxy after the meeting but before the poll, and it was held that such revocation was of no effect, because notice of the revocation was not received, in law, before the meeting, but actually during it.

But it does not follow from this decision that there is no means available to a shareholder who has given a proxy in such circumstances of registering a change of mind on his part; he can, in such case, attend the poll personally and tender his vote, when it must be received to the exclusion of the proxy (*Cousins* v. *International Brick Co. Limited* [1931] 2 Ch. 90). The proxy is only an agent, and if the principal in person proposes to attend to the particular business for which the proxy was appointed, he is entitled to do so.

Before leaving the subject of proxies, the case of *Peel* v. *London & North Western Railway Co.* [1907] 1 Ch. 5, where it was held that the directors of a company could properly employ its funds in sending out to the shareholders stamped forms of proxy appointing as proxies persons presumably favourable to the views of the directors. No doubt any recipient of such a form could delete the names of the suggested proxies, and insert in their place someone favourable to his own views, but, in fact, the sending out of such a form does confer upon the directors, if they wish to control the voting, an initial advantage. Should this be allowed with the company's own moneys? The court has certainly thought so; and it is undoubtedly convenient and proper that the expenses of the printing and stamping, and perhaps even of the returning to the company of the proxy forms, should fall upon the company. But why should all this be allowed to be used for the purposes of the directors' own propaganda?

Who has the right to demand a poll? This, again, depends on the articles of association. Table A (by Art. 50) confers that right on at least three members present in person or by proxy entitled to vote, or on one member or two members so present and entitled, if that member or those two members together hold not less than 15 per cent. of the paid-up capital of the company. Section 117 has something to say on the demand for a poll in the case of meetings at which an extraordinary or special resolution is submitted to be passed, for it controls the requirements of articles of association to this extent, that, though a poll is to be taken to be effectively demanded, if it be demanded by such number of members for the time being entitled under the articles to vote at the meeting as may be specified in the articles, but so that it shall not in any case be necessary for more than five members to make the demand.

This is contained in s. 117 (*a*), which also goes on to provide for a demand for a poll where the articles are silent on the point; those then entitled to make the demand are the same as those specified in Art. 50 of Table A, except that the section does not contain the words "present in person or by proxy," and is therefore less advantageous to the members of the company than Table A.

The taking of a poll is an operation that sometimes creates a difficulty; but the usual way of taking it is by means of a voting paper or of voting cards. On this paper or card the shareholder must write his name and the number and class of shares held by him, and whether he is in favour of or against the resolution; a proxy must do the same thing, showing for whom he is acting as proxy, the number and class of shares held by that person, and the sense in which his vote is to be recorded.

By that method it is possible to check the votes, and this ought to be done in respect of every vote, even though it may entail considerable clerical work; while it is also a common practice, where there is considerable contention, to appoint scrutineers representing the contending factions, who check the votes, and see that they are properly given and recorded. There is no absolute necessity for scrutineers, except in the cases (and they cannot be many) where the articles require them to be appointed, but it is a very desirable practice.

There has been a number of decisions as to whether or not the declaration of the chairman of the result of a poll is conclusive; this must depend on the articles in each case, and no very useful purpose could be served by an examination of those authorities here, though the case of *Wall* v. *Exchange Investment Corporation Limited* [1926] Ch. 143, shows that you can frame your articles in such a way as practically to preclude any challenge of the chairman's decision as to the result of a poll, if that decision be given *bonâ fide*.

The courts have decided that the right of voting attached to shares is property which the owner is entitled to protect; and they have also decided that the directors are trustees of their powers of issuing shares, so that they can be restrained from exercising those powers in such a way as to control, to their own advantage or for their own ends, the voting power of the company: see *Punt* v. *Symons & Co.* [1903] 2 Ch. 506; *Piercy* v. *S. Mills & Co.* [1920] 1 Ch. 77.

This right of voting which we have discussed at some length in this and the preceding article is a valuable thing, and, generally speaking, the shareholder is entitled to exercise it as he thinks fit, but this is not always so. In this connection it is necessary to bear in mind a distinction between a general meeting of the company and a class meeting, such as a meeting of holders of shares of a particular class, or of debenture-holders or debenture stockholders. In the former case, that of general meetings of the company, the principle to be applied is this, that the court will not interfere to prevent votes so given having their full effect unless either the vote is given in respect of some matter *ultra vires* the company or the majority are attempting by an abuse of their voting power to oppress the minority, but this, apparently, must be actually fraudulent before the court will interfere.

No explanation is needed of the readiness of the court to interfere where it is proposed to do something *ultra vires* the company; the second proposition, as to the oppression of the minority by the majority, is generally rested on the case of *Menier* v. *Hooper's Telegraph Works*, 9 Ch. App. 350. Some kinds of oppression are obvious, as, for instance, where the majority propose to get for themselves alone some part of the company's property which belongs to all the shareholders equally; but there are other cases which have never been finally thrashed out, but which might give rise to an interesting discussion.

Thus, imagine a case where the liquidation of the company might benefit A by bringing to an end a contract between him and the company, profitable to the company, but exceedingly onerous on A. A owns, or controls, the majority of the votes in the company; is it, or can it in any circumstances be, an oppression of the minority by him to use his preponderance of voting power to secure the liquidation of the company? It is submitted with some confidence that such an operation cannot be within the *Menier* v. *Hooper's Telegraph Works* principle, for the Act has provided for liquidation in certain events, one of which is the expression of a desire for liquidation by the appropriate majority of shareholders in the appropriate manner; and it is thought that to take advantage of such a provision cannot be actually fraudulent, though I am aware that persons competent to judge have differed on this point.

But turn from general meetings of a company to class meetings, and you get quite a different position; at such meetings the voter cannot vote as he pleases in his own interest, which is in effect what he can do at general meetings provided he is not fraudulent. At class meetings the interest of the class is paramount, and the voter, in recording his vote, must always keep that interest before him; on this point the reader is recommended to read the Privy Council case of

British America Nickel Corporation v. *O'Brien* [1927] A.C. 369, and, if he can understand exactly on what principle the exercise of voting rights has been held to be subject to different considerations, according as to whether those votes are cast at general meetings or class meetings, he has grasped something which the writer of this article has been, up to date, quite unable to do. But perhaps this article had better be closed now for this week, in case further self-revelation destroys such measure of confidence as the readers of this column have been wont to repose in the author.

A Conveyancer's Diary.

Duress in Relation to Settlements.

A RECENT case, *De Pret-Roose* v. *De Pret-Roose* (reported in *The Times* for 5th and 6th December), directs attention to the question of settlements made under duress and induced by undue influence.

The subject is a wide one, and includes such cases as the duty owed by a person to another to whom he is in a fiduciary relation, and many cases where, although no fiduciary relation exists, the parties are placed in such a position one to the other as to give rise to an equitable ground for impeaching any transactions between them by which a benefit accrues to that one of them who is or may be presumed to be able to exercise domination over the will and conduct of the other. Every case must, of course, depend upon the proved facts.

In *De Pret-Roose* v. *De Pret-Roose*, the facts were that the wife (who had considerable means) in a deed of separation, settled an annuity of £4,000 upon the husband, and a similar annuity upon each of the two children of the marriage. It was provided that the two annuities of £4,000 each for the children might be paid by the trustees of the deed to the husband and applied by him in the maintenance of the children. It does not seem to have been suggested that the annuities intended for the children had not been properly applied in fact. The object which the wife had in view in providing these annuities for the children was, apparently, to reduce the amount of sur-tax for which she was liable. It seems that there was some good ground for the separation, at any rate, it does not appear to have been contested that the wife had formed a friendship with a man to which the husband objected. The husband was a natural-born Belgian subject, but was naturalised in this country. The main ground upon which the plaintiff's case rested was that her husband had threatened to take the children to Belgium and deprive her of any opportunity of seeing them again. The settlement provided that the children should spend half their time with the husband and half with the wife.

In that state of things Bennett, J., decided against the wife. His lordship made a point of the fact that the parties were advised by separate solicitors, and based his judgment upon the statement of the law in *Cooper* v. *Crane* [1891] P. 369, and said: "The question which I have to consider is whether, when the plaintiff placed her signature to the separation deed, her powers of volition were so paralysed that by her words and acts she merely gave expression to the will of the defendant and not to her own will."

Cooper v. *Crane* was, perhaps, a rather unfortunate case upon which to base the judgment in the instant case. There the question was not with regard to the validity of a settlement, but as to the validity of the marriage itself. I need not go further into the facts of that case than to say that there was a marriage between cousins which was not (and apparently was not intended to be) consummated, and the wife alleged that she did not understand that the marriage ceremony was binding and thought that for technical reasons it was not valid.

It appears that what may be sufficient to set aside a settlement may not necessarily be a ground for declaring a marriage to be null.

The relationship of husband and wife does not in itself give rise to any presumption of undue influence, but post-nuptial settlements by a wife will be regarded with some suspicion when the benefit is mainly for the husband.

The law regarding the presumption of undue influence is stated in the well-known case of *Huguenin* v. *Baseley* (1807), 14 Ves. 273, but in *Nedby* v. *Nedby* (1852), 5 De. G. & Son, 377, it was clearly laid down that the relationship of husband and wife did not give rise to any presumption of undue influence within the doctrine of *Huguenin* v. *Baseley*, although, as was said in *Grigby* v. *Cox* (1750), 1 Ves. sen. 517, "the court will have more jealousy" over such a transaction.

In *Barron* v. *Willis* [1899] 2 Ch. 578, Cozens-Hardy, J., said: "It is also settled by authority which binds me, although text-book writers seem to have adopted the opposite view, that the relation of husband and wife is not one of those to which the doctrine of *Huguenin* v. *Baseley* applies. In other words, there is no presumption that a voluntary deed executed by a wife in favour of her husband and prepared by the husband's solicitor, is invalid. It is, moreover, consistent with the authorities which have recognised the validity of mortgages by a wife to secure her husband's debts, although a similar mortgage by a son just after attaining majority to secure his father's debts would not be upheld."

All this only goes to show that there is not any *presumption* of undue influence arising from the relationship of husband and wife. At the same time a settlement by a wife in favour of a husband may, as I understand the authorities, be set aside without going quite so far as to say that the wife's powers of volition were so paralysed that by her words and acts she merely gave expression to the will of her husband and not to her own will. However that may be it is noticeable that settlements by a wife in favour of her husband have seldom been set aside; very strong evidence of pressure amounting to fraud being required in such a case.

In this connection, although not directly in point, the case of *Re Flamank; Wood* v. *Cock* (1889), 11 Ch. D. 461, may be considered.

A married woman being entitled to a sum of money for her separate use under the will of a testatrix, a mortgage for a larger sum held in trust for the testatrix was transferred in 1867 by the married woman and another person, as executors of the trustee, to the husband of the married woman, he paying out of his own money to the executors of the testatrix the amount of the difference between the two sums. In 1869 the husband as mortgagee sold the mortgaged property, and his wife and the other executor of the original mortgagee, as such executors, concurred in the assignment to the purchaser, the execution of the assignment by the wife being procured by the husband. The husband received the purchase money and applied it to his own use. The husband and wife lived together in amity until his death, and no proceedings were ever taken against him by her in respect of her money so received, nor did she receive any income thereof. The husband having died, the wife claimed to rank as a creditor against his estate for the sum received in 1867 by him, with subsequent interest. The wife denied that she ever gave her husband any authority to receive the money, and there was some evidence that she objected to his receiving it. The wife was not separately advised in the transaction in reference to the mortgage.

It was held on the facts that the husband's representatives had not discharged the burden which lay upon them of proving a gift of the capital sum by the wife to the husband, and that the wife's claim in respect thereof must be allowed. The claim for interest was, however, disallowed.

Mr. Busick Edmonds Pemberton, retired solicitor, of Chalfont St. Giles, left £64,176, with net personalty £59,980.

Landlord and Tenant Notebook.

Contracting out of the Agricultural Holdings Act.

THE first Agricultural Holdings Act, that of 1878, did not prohibit contracting out; the practice soon became so widespread that a remedial clause was introduced in the next of the series, that of 1883; roughly speaking, the contracting out section has since grown wider and wider, and attempts to evade it have become more and more hopeless. I think the authority which may be said to have conveyed to die-hard landlords that the game was up was the House of Lords decision, under the Scots statutes, in *Cathcart* v. *Chalmers* [1911] A.C. 246. All that was attempted was expressed in a proviso, incorporated in the lease by reference, which ran: "Provided always that no claim for compensation under the said Acts, or under these conditions, shall be made by the tenant later than one month prior to the determination of the tenancy." The tenant made his claim in the last month, and resorted to arbitration; the landlord obtained an injunction at first instance, which was set aside on appeal to the Second Division. A passage in the judgment of Lord Dundas, cited with much approval by Lord Shaw of Dunfermline when the matter came before the Lords, puts the whole thing in a nutshell: "The statutes sanction a pactional substitution of compensation in terms of agreement for compensation in terms of the Acts; but not, as I consider, the adjection of a collateral stipulation such as this, which might (at least indirectly) operate to deprive the tenant of his right to obtain any compensation at all." The criticism might be made that contracts are, as a rule, enforceable without express statutory sanction; however, Lord Loreburn, using rather a different nutshell, pointed out that the issue depended on whether the condition requiring the tenant to give notice within a month was or was not something which deprived him of his right to claim compensation under the Act. "I think it does . . . It says, You cannot give notice during the whole month prior to the end of the lease—whereas the Act allows notice to be given during the whole of that month."

Be it observed that in those days the contracting out section spoke of agreements which "deprived" the tenant of his right to compensation. The present enactment, in s. 50 of A.H.A., 1923, rubs it in: "Subject to the provisions of this Act, any contract (whether under seal or not) made by a tenant of a holding, by virtue of which his right to claim compensation under this Act is *taken away or limited*, shall to that extent be void."

The opening qualification saves claims based on agreement or tenant-right when the tenant can do better on those lines. Compensation, originally limited to compensation for improvements, now includes compensation for increased value, for disturbance, for damage by game. But on one point scope is left for bargaining; there is no prohibition of contracting out of the provisions as to fixtures to be found in the present s. 22. And this can hardly be an oversight on the part of the Legislature, for attention has been drawn to the position twice at least.

In *Mears* v. *Callender* [1901] 2 Ch. 388, a clause in the lease boldly excluded it from the whole of the Act (of 1883). It was, indeed, the tenant who benefited by the clause in question, for it was held that he retained his common law right to remove certain greenhouses which he had erected, and which were held to be fixtures. The authority is better known as an illustration of other points, but on the point cited it was applied by Peterson, J., in *Premier Dairies Ltd.* v. *Garlick* [1920] 2 Ch. 17. Here the lease contained elaborate covenants by the tenant for the care of the premises, including new buildings, and a covenant to deliver up premises and new buildings at the termination of the lease. When the covenantor sought to remove certain new buildings in the nature of fixtures, in reliance on the A.H.A., 1908, he found that he was not entitled to, for the contracting out section did not "hit," as Cozens Hardy, J., put it in *Mears* v. *Callender*, the section dealing with fixtures.

Our County Court Letter.

WRONGFUL SEIZURE UNDER EXECUTION.

IN a recent case at Ipswich County Court (*Girlings* v. *Walsh*) the claim was for damages for trespass in the following circumstances: (1) The defendant had obtained judgment against the plaintiff's husband, who had a cycle business at Hadleigh; (2) the plaintiff also had a wireless business in the same town, but at a different address, where the bailiff had levied on some of her goods; (3) the latter were returned (on the mistake being discovered) but the visit of the bailiff had damaged the plaintiff's business. The defendant's case was that (*a*) his debt collector had heard from the bailiff that there were not enough goods upon which to levy, but (as this was untrue with regard to the shop of the plaintiff's husband) the bailiff was instructed to proceed; (*b*) when it was discovered that he had done so at the plaintiff's own shop (instead of her husband's) the matter was at once rectified; (*c*) even if the business was really the plaintiff's, the damage was negligible. The jury found for the plaintiff in the sum of £10 10s, and—as more than that amount had been paid in—the defence applied for costs thereafter. His Honour Judge Hildesley, K.C., gave judgment for the plaintiff for £10 10s. and costs on the appropriate scale. It is to be noted that the bailiff is immune from liability in such circumstances under the County Courts Act, 1888, s. 54. The judgment creditor only incurs personal liability if he interferes, as in the normal case the bailiff is not his agent. See *Cronshaw* v. *Chapman* (1862), 31 L.J. Ex. 277, where it was held that a letter to the high bailiff was merely a direction to do his duty, and not an interference rendering the creditor personally liable.

LIABILITY FOR CHANCEL REPAIRS—HOW LIMITED.

AN interesting case was recently decided by His Honour Judge Hildesley, K.C., at Bury St. Edmunds County Court, in which a parochial church council sued two lay impropriators for the cost of repairing the chancel of their parish church. The action was brought under the Chancel Repairs Act, 1932, which abolished the jurisdiction of the Consistory Courts in chancel repair cases and transferred them to the county courts. In this particular case (probably one of the first, if not the first, to come before a county court judge) the defence was that the defendants had not received enough income from the tithe rent-charge of which they were impropriators to cover the cost of the repairs which were estimated to amount to nearly four times the amount the defendants had in fact received from their interest. Section 3 of the Act of 1932 provides that if the court takes the view that, had the old jurisdiction not been abolished, the Consistory Court would have "admonished" the defendants for failing to do the repairs, the court would then give judgment for the plaintiffs. Accordingly, in a case where the lands out of which the tithe rent-charge originally issued had been divided up (as in the present case) it was necessary to ascertain the principles upon which the Consistory Court would have acted; and His Honour came to the conclusion that he had no power either to give judgment for the plaintiffs in the case before him for the amount claimed, or even to give them judgment for such sum as they admittedly had received in respect of tithe rent-charge. Judgment was therefore given for the defendants. The case is interesting from the legal standpoint, and, we understand, is going to appeal. The result will be awaited with great interest by churchmen generally—apart from lawyers.

To-day and Yesterday.

LEGAL CALENDAR.

10 DECEMBER.—A terrible case came before the Assizes of the Lower Alps on the 10th December, 1835, when the family of Joseph Rizou, a farmer, were tried for murdering him. It was alleged that at 7 o'clock one morning they went to his room, and, while his wife held his hands and his daughter his legs, his eldest son put a rope round his neck and strangled him. Afterwards he was prepared for burial with a cravat hiding the marks of the cord. The defence was that the deceased had hanged himself, and that his family had cut him down too late to save him. The prisoners were all acquitted, but as the tragedy had occurred the morning after the old man had refused to make a division of his property before a notary, probability points to a sordid crime of greed.

11 DECEMBER.—The great Lord Halsbury died in London on the 11th December, 1921, after two days' illness from influenza. He was in his ninety-eighth year, and had become both a tradition and a legend, and certainly a man who had been called at the Inner Temple before the new Hall was built, who had practised as a silk at Westminster before the courts moved to the Strand, and who had been three times Chancellor, holding the Great Seal for seventeen years in all, seemed in his person to bridge a tremendous gulf in the passage of time.

12 DECEMBER.—Sir Thomas Coventry died on the 12th December, 1606, less than a year after his appointment as a Justice of the Common Pleas. He was buried at Croome d'Abitot in Worcestershire. He studied law at the Inner Temple, where he remained a member till he was called to the degree of serjeant at law in 1603. When Coke vacated the place of Solicitor-General, he is said to have made a bid for it, literally, buying Cecil's interest for two thousand angels.

13 DECEMBER.—The case of *Jones* v. *Morgan*, heard before the Vice-Chancellor of England on the 13th December, 1845, was at the time considered "a singular *exposé* of the schemes and failure of the Socialists." The Orbiston Company had been founded to develop an estate according to the principles of Robert Owen, which were in a few years to extirpate crime and vice, and create a superior race of beings immune from poverty and mutually supported in wealth by a better system of political and domestic economy. The soil and climate of Scotland proved too much for them. In two years, they decided that the new system "had not realised the advantage expected from it"; and the Vice-Chancellor had to decide how the losses should be borne.

14 DECEMBER.—On the 14th December, 1847, three card-sharpers were convicted at the Old Bailey of conspiring to defraud a simple-minded West Indian whom they had mercilessly "plucked" by means of false cards. They had picked up the "flat" at Cremorne Gardens, fleeced him of £1,500, found him an easy prey and speculated on getting £4,000, but one of their associates developed a grievance and informed on them. They were all fined and imprisoned.

15 DECEMBER.—A legal technicality saved a number of seamen tried at the Old Bailey on the 15th December, 1842, before Mr. Baron Alderson, for the murder of a black cook on the high seas. One morning the poor fellow had been too ill to leave his berth and the prisoners had put a rope round his neck and hauled him out, afterwards leaving him on deck exposed to the inclemency of the weather. The indictment alleged that his death was due to strangulation, but the evidence tending to show that it was due to exposure, the judge with great regret directed an acquittal.

16 DECEMBER.—On the 16th December, 1832, an extraordinarily varied legal career began, when Judah Benjamin was called to the bar at New Orleans.

THE WEEK'S PERSONALITY.

Nothing very extraordinary seemed foreshadowed by the first stage of the legal career of young Judah Benjamin, the child of Jewish-English parents who had settled in New Orleans. He studied law, took pupils and compiled a digest of cases decided in the local court. Here, dealing with a complicated legal system derived from Roman, Spanish, French and English sources, he laid the foundation of that varied knowledge of different juristic systems which later distinguished him. His practice grew and he transferred his activities very profitably to Washington. Then came the Civil War. He took up the cause of the South, becoming Attorney-General in the provisional government of Jefferson Davis. Subsequently, as Secretary of State, he was acknowledged as "the brains of the Confederacy." When the North triumphed, he made a dangerous and romantic escape from the country by ambulance, on horseback and in a leaky open boat. He reached England almost penniless, joined Lincoln's Inn and set about building himself a new career at the age of fifty-five. At first he got but little practice, till his classical book on "Sale" brought him acknowledgment and success and immortalised his name in English law. He became a leader of the English bar, but to the last he retained his loyalty to the Southern Confederacy.

GENERAL STRIKE.

The general strike of Roumanian lawyers, as a protest against an order of the Minister of Justice affecting court fees, has few parallels in legal history. One precedent in this country did not end very encouragingly for the strikers. While Francis North was Chief Justice of the Common Pleas, the serjeants practising there developed a grievance because he allowed his brother to make certain motions which they claimed as their prerogative. As a protest, they refused one day to bring forward any business, and work came to a standstill. The court had to adjourn, but the Chief Justice declared that next day he would hear anyone, even attorneys or the suitors themselves, in spite of the monopoly of the serjeants. "This was like thunder to the serjeants and they fell to quarrelling one with another about being the cause of this great evil they had brought upon themselves. In the afternoon they attended the Chief Justice and the other judges of the court, and in great humility owned their fault and begged pardon, and they would be careful not to give the like offence for the future." But the Chief Justice refused to be satisfied with anything but a public apology, and, on receiving it, administered a "formal chiding." Thus ended the farce of "The Dumb Day."

LOCKED OUT OF PRISON.

"Usually men try to break out of prison," said the Hull magistrate in surprise when a man was charged before him with being found on enclosed premises with unlawful intent, the premises being Hull Gaol. However, incidents not very unlike this curious happening have been known in Ireland. During the troubles there was a prisoner let out of Crumlin Gaol on parole because his wife was ill. He was due back on a certain day at 4 o'clock, but it was already 5 o'clock when he rang the bell at the prison gates. "What do you want?" asked the warder. "I'm a prisoner here," was the reply. "Too late to-day," the astonished would-be captive was told. "But where am I to go?" he asked. "You'll have to go to an hotel," said the warder inflexibly. And to the hotel he had to go. Comparatively recently, a couple of prisoners handcuffed together were forgotten in court by their escort and found their way back to Cork Gaol after having a mild party at a public-house on the way.

Obituary.

MR. A. F. HOGG.

Mr. Alan Frederic Hogg, formerly Attorney-General of the Uganda Protectorate, died in a London nursing home on Thursday, 6th December, at the age of sixty-six. He was educated at Winchester and King's College, Cambridge, and was called to the Bar by the Inner Temple in 1892. He practised until 1908, when he accepted a magistracy in Uganda. He was Attorney-General of Nyasaland from 1915 to 1918, and of the Uganda Protectorate from 1918 to 1924.

MR. W. J. BARNES.

Mr. Walter James Barnes, solicitor, a member of the firm of Messrs. Bazeley, Barnes & Bazeley, of Bideford, died on Friday, 30th November, in his sixty-third year. Mr. Barnes, who was admitted a solicitor in 1895, was formerly Clerk to Northam Urban Council. He retired last July after having held the office for thirty-three years.

MR. P. R. EVANS.

Mr. Percy R. Evans, retired solicitor, of Bristol, died recently, at Bournemouth, at the age of eighty. Mr. Evans, who was admitted a solicitor in 1878, was the founder of the Bristol firm of solicitors of Messrs. Taylor, Son & Corpe. He retired in 1923.

MR. C. A. WHITE.

Mr. Charles Ashwin White, solicitor, head of the firm of Messrs. Ashwin White & Co., of Barnsley, died in a Sheffield nursing home, on Friday, 30th November, at the age of fifty-eight. Mr. White, who was admitted a solicitor in 1905, was clerk to the district council.

MR. J. H. YONGE.

Mr. John Henry Yonge, retired solicitor, died at Newton Ferrers on Thursday, 29th November, at the age of eighty-two. Mr. Yonge, who was educated at Eton, practised as a solicitor at Worcester for about forty years. He retired in 1918.

Correspondence.

[*The views expressed by our correspondents are not necessarily those of* THE SOLICITORS' JOURNAL.]

Land Tax.

Sir,—In 1922 we carried through the redemption of land tax on an estate about to be developed for building. All plots of land were sold free of land tax, and the right of purchasers to production of the certificate of redemption was acknowledged.

We are now acting for a purchaser from one of the original purchasers on the estate, and the vendor's solicitors in answer to requisitions inform us of the land tax assessment, and state that it has been regularly paid.

We have naturally taken the matter up with the collector, who admits that practically all the purchasers on the estate have been paying land tax, and that he had no knowledge of the redemption. He informs us that it is his duty to assess and demand land tax wherever possible, leaving the owner to challenge the assessment if he can; where mistakes occur and are proved the assessment is cancelled, but no tax claimed and paid in error is ever returned.

Surely some alteration in the machinery of land tax collection is indicated for the purpose of ensuring that local inspectors of taxes are informed of all redemptions and proper entries made in their books.

Another instance of the results of the apparent lack of system in land tax collection arose some 30 years ago, when we were instructed by a client to ascertain whether his property, on which he had been paying land tax for ten years, was in fact liable to such tax.

After a full investigation of old abstracts and deeds we proved to the satisfaction of the Commissioners of Land Tax that the tax had been redeemed in or about the year 1798, whereupon the necessary alteration was made in the tax books, but, in accordance with the practice which we understand still exists, none of the tax already paid was recoverable.

We should be interested to hear whether other practitioners have had similar experiences.

Colchester. HOWARD, ELLISON & MORTON.
3rd December.

Reviews.

Fresh Fields for Investment. By RALPH CURTIS, M.Sc. (Econ.) and F. B. WINHAM. 1934. Crown 8vo. pp. 188. London: Jordan & Sons, Ltd. 5s. net.

This little volume has been written to fill a gap in the published literature relating to investments, there being at present no book bringing together under one cover the various methods of investment existing outside the Stock Exchange. It contains a variety of new suggestions as to how surplus funds may be invested by those fortunate enough to have them on hand.

The Law of Damages. By S. JACKSON, B.A. (Oxon), LL.B. (Lond.). 1934. Demy 8vo. pp. xvi and (with Index) 135. London: Stevens & Sons, Ltd. 6s. net.

This book is primarily intended for the use of students reading "Damages" as a special subject for the common law paper set in Bar examinations. It is the author's hope at the same time that the chapters on Measure, Aggravation and Mitigation of Damages, and the Sale of Goods will be useful to students of the Universities who are reading law. In addition to the topics named, there are chapters on Recovery of Costs, Debt, Guarantee and Insurance—all in relation to damages; and a very concise well-arranged volume concludes with chapters on Damages Recoverable in Tort and on Pleading in an action for damages.

Books Received.

Whitaker's Almanack for 1935. Sixty-seventh Annual Volume. Crown 8vo. pp. 992. London: J. Whitaker & Sons, Ltd. 6s. net.

Practice before the Masters in the King's Bench Division 1934. By Sir GEORGE BONNER. Demy 8vo. pp. 36. London: Stevens & Sons, Ltd. 2s. net.

The Bell Yard. No. XIV. November, 1934. Edited by J. G. FOSTER, M.A., and G. C. GODBER. London: The Solicitors' Law Stationery Society, Ltd. 2s. net.

Law and History. By The Rt. Hon. Lord MACMILLAN. 1934. Edinburgh and Glasgow: William Hodge & Co., Ltd. Price 1s.

Thomas & Bellot's Leading Cases in Constitutional Law. Seventh Edition. 1934. By E. SLADE, M.A., of Lincoln's Inn, Barrister-at-Law. Demy 8vo. pp. xix and (with Index) 392. London: Sweet & Maxwell, Ltd. 10s. 6d. net.

Solicitors' Accounts. By ERNEST EVAN SPICER, F.C.A. 1934. Crown 4to. pp. (with Index) 62. London: H. F. L. (Publishers), Ltd. 5s. net.

The Road Traffic Acts, 1930 *to* 1934, *and the Orders issued thereunder.* By GERAINT REES, B.A., LL.B., of the Inner Temple and the South Wales Circuit, Barrister-at-Law, and ARTHUR G. DENNIS, LL.M., Solicitor. 1934. Royal 8vo. pp. lxxi and (with Index) 646. London, Liverpool, Birmingham and Glasgow: The Solicitors' Law Stationery Society, Ltd. 30s. net.

"APPEALS" WHICH SHOULD NOT BE DISMISSED.

We are continuing our practice of calling attention, at this season of the year, to the appeals made by organised charitable institutions. Our Special Appeal at Christmas-time in past years has, we venture to hope, met with a certain amount of success, and we therefore give the following details of some of the deserving institutions which are badly in need of support:—

The Cancer Hospital (Free) was founded in 1851 by the late Dr. William Marsden for the treatment of patients suffering from cancer, tumour or allied diseases. From a small commencement the hospital has gradually grown to carry out the ever-increasing demands of the sick poor that it now accommodates 130 beds for patients entirely free of any charge. No "letters of recommendation" are or ever have been required—a condition made by the original founder of the hospital—which is perpetuated by the word "Free" in its designation. The hospital has a splendid record, not only of devoted healing and nursing work, but in the vitally important service of cancer research. Legacies, subscriptions and donations will be welcomed by the Secretary, The Cancer Hospital, Fulham-road, S.W.3. Assistance is also required by the British Empire Campaign, of 12, Grosvenor Crescent, S.W.1, the National Society for Cancer Relief, of 15 Ranelagh-road, S.W.1, and by the Imperial Cancer Research Fund, of Queen-square, W.C.1, which carry on a work of the greatest importance to mankind.

The Princess Louise Kensington Hospital for Children, of St. Quintin-avenue, W.10, is appealing for an increase in the number of annual subscribers so that the hospital may remain free from debt. The sum of £17,000 is required for the building and equipping of the final section of the Nurses' Home, which will free space for the fourth ward and so complete the hospital with a total of 102 beds.

Funds to enable them to carry on their good work are also required by the Hospital for Sick Children in Great Ormond-street, W.C.1, which is the oldest voluntary hospital for children, and by the Princess Elizabeth of York Hospital for Children, of Shadwell, E.1, which cares for the sick and suffering children of the East End of London.

The National Hospital of Queen-square, W.C.1, and the Hospital for Epilepsy and Paralysis in Maida Vale, W.9, are in need of help, as is also the Hospital for Consumption, Brompton, S.W.3.

Space does not permit us to refer specifically to the many other hospitals urgently in need of assistance, but we feel that Westminster Hospital, S.W.1, and Guy's Hospital, at London Bridge, S.E.1, should not be forgotten.

The Royal Surgical Aid Society, which was established in 1862, to supply spinal supports, artificial limbs, etc., has supplied over 1,450,000 appliances to the poor. Donations will be welcomed by the Secretary at the offices of the Society, Salisbury-square, Fleet-street, E.C.4.

There are many deserving charities whose principal objects are child welfare, and of these Dr. Barnardo's Homes earnestly invite the co-operation of all child lovers to make this a really happy Christmas for every boy and girl in their large family. There are always 8,300 children in the Homes, and on an average five children are admitted every day. Over 1,500 young people leave them each year trained and fitted to take their places in the world. Donations will be gratefully received by The Treasurer, Dr. Barnardo's Homes, 18–26, Stepney Causeway, London, E.1.

The Shaftesbury Society and R.S.U. serves the crowds of children and families packed in miserable homes in mean streets. Special agencies minister to human needs from before birth to old age, as in Ante-Natal Clinics, Infant Welfare Centres and Day Nurseries, Medical Missions, Meetings for Women, Grandfathers and Old Age Pensioners. Some 5,500 voluntary workers are engaged in these, and in Sunday Schools and Services, Scouts, Guides, Brigades, Bands of Hope, and in the 120 Cripple Parlours and Senior Guilds for over 8,000 cripples on the Society's Register. The four Seaside Residential Schools have now in them about 270 crippled and ailing children. Gifts of money or of goods will be gratefully acknowledged if sent to Arthur Black, General Secretary, John Kirk House, 32, John-street, W.C.1.

Other deserving charities of this nature which should not be forgotten are the Royal Soldiers' Daughters' Home, the National Children's Home and Orphanage, Spurgeon's Orphan Homes, Homeless Children's Aid and Adoption Society, and last, but by no means least, the N.S.P.C.C. It seems incredible that such a country as this should still require societies, not merely to direct it in the proper care of its children, but in some cases to protect children from the maltreatment of their parents, or others having control or care of them. Gifts to any of these deserving objects should be sent respectively to the Royal Soldiers' Daughters' Home, 65, Rosslyn-hill, Hampstead, N.W.3; The National Children's Home and Orphanage, Highbury Park, N.5; Spurgeon's Orphan Homes, Clapham-road, Stockwell, S.W.9; The Homeless Children's Aid and Adoption Society, 93, Westminster Bridge-road, S.E.1; and the N.S.P.C.C., Victory-house, Leicester-square, W.C.2.

Among charities not confined to the care of the sick or of children, St. Dunstan's, whose headquarters are at Inner Circle, Regents Park, N.W.1, is perhaps one of the best known. The annual report contains a full description of the work and activities of St. Dunstan's under the title, "For the Duration." This phrase was popular enough twenty years ago, but for war-blinded men it has taken on a new significance. They have to face the prospect of physical darkness for the rest of their lives. They are blinded—"for the duration." St. Dunstan's, however, intends to carry out its pledge to ensure proper treatment and every reasonable care for its blinded ex-soldiers until the last one has passed on. An appeal is also made on behalf of Earl Haig's British Legion Appeal Fund, and a Christmas present, large or small, addressed to Captain Wilcox, Haig House, Eccleston-square, S.W.1, on behalf of that fund would be doubly welcome.

The National Institute for the Blind, of 224-6-8, Great Portland-street, W.1, which was founded in 1868, aims at the development of a spirit of self-help among our sightless population. Apart from its Sunshine Homes for Blind Babies, care of the aged and infirm, production of embossed literature, and other charitable activities, the Institute is following a definite programme to enable the blind to become self-supporting citizens.

Thousands of blind readers also derive their happiness from books produced and loaned free by the National Library for the Blind, of 35, Great Smith-street, S.W.1.

The labours of the Church Army on behalf of humanity at this period of the year are only limited by its income and donations or other gifts to increase this should be sent to Preb. Carlile, C.H., D.D., Hon. Chief Secretary, 55, Bryanston-street, S.W.1. The Salvation Army also contributes a vital service to the nation; but it cannot be maintained without large support. The headquarters are at 101, Queen Victoria-street, E.C.4.

During the past 116 years the British Sailors' Society has worked hard for the welfare of seagoing men. Its hostels, situated near the quayside of over 100 world-ports, welcome the men with outstretched arms and brotherly love as they cross the gang plank. Good food is provided and free beds are available for those unable to meet expenses. Generous support, however, is necessary, and donations will be gratefully received at 680, Commercial-road, E.14.

Funds are urgently needed to maintain the existing pensions and to assist the ever-increasing number of deserving cases cared for by the Distressed Gentlefolk's Aid Association, the address of which is 75, Brook Green, S.W.6, and by Miss Smallwood's Society for the Assistance of Ladies in Reduced Circumstances, at Lancaster House, Malvern. The National Benevolent Institution, of 65, Southampton-row, W.C.1, also greatly needs additional support.

The Central Discharged Prisoners' Aid Society, of Rooms 34 and 35, Victory House, Leicester-square, W.C.2, annually cares for many thousands of discharged prisoners and dependents of those serving sentences, and urgently needs assistance.

Support to enable them to carry on their good work in the treatment of animals is required by the Royal Veterinary College, of Camden Town, N.W.1, and the People's Dispensary for Sick Animals, of 14, Clifford-street, New Bond-street, W.1.

Last but by no means least of the organisations deserving of the charity of the legal profession are those the objects of which are most directly concerned with their fellow members. Of these, The Law Association, 3, Gray's Inn Place, W.C.1, and The Solicitors' Benevolent Association, 2, Stone Buildings, Lincoln's Inn, W.C.2, would gladly welcome any assistance however small.

These are obviously only a few of the many and varied charitable organisations urgently requiring funds, but we hope that perhaps this short notice may assist readers who, at this festive season, are desirous of making some small contribution to the happiness and welfare of those less fortunate than themselves.

Notes of Cases.

Judicial Committee of the Privy Council.

Nippon Yusen Kaisha *v.* China Navigation Co. Ltd.

Lord Atkin, Lord Macmillan and Lord Wright.
4th December, 1934.

Ship—Collision—Fog-signal—Position of Vessel "Not Ascertained"—Failure to Stop Engines—Breach of Article 16—Regulations for Preventing Collisions at Sea.

On the 22nd March, 1931, a collision occurred in the harbour of Hong Kong between the steamship "Toyooka Maru," belonging to the appellants, Nippon Yusen Kaisha, and the "Kiangsu," owned by the respondents, the China Navigation Co., Ltd. The "Toyooka Maru" was outward bound, and when she had proceeded some distance, but was still within the harbour waters, her master observed a bank of fog approaching. The "Toyooka Maru" was then on the starboard or south side of the channel, being the proper side for an outgoing vessel. Judging it unsafe to proceed in the fog, her master resolved to anchor, and decided to make his way to an anchorage to the north of the fairway, and he altered his course accordingly. No incoming vessel had been seen by him, and he gave the usual fog signals by sounding prolonged blasts at short intervals. The "Kiangsu" was inward bound, and was proceeding on the northern side of the channel, which was the proper side for her, when she heard the fog-signal of the "Toyooka Maru" some points on her port bow. She did not stop her engines, but put them to slow, and after altering her course a point or two to starboard, proceeded on her way, sounding fog-signals at short intervals. A collision occurred. In the subsequent cross-actions for damages the trial judge found the "Toyooka Maru" solely to blame, and that decision was affirmed by the Full Court of Hong Kong on the ground that she was wholly to blame, *inter alia*, on account of her having crossed the fairway in fog. Her owners now appealed.

Lord Macmillan, in giving the judgment of the Board, said that their Lordships accepted the finding of the courts below that the "Toyooka Maru" was at fault in crossing the fairway in fog. There remained, however, the question whether she was solely to blame. The critical point for determination was whether Art. 16 had been broken by the "Kiangsu." That article provides that: "A steam vessel hearing, apparently forward of her beam, the fog-signal of a vessel the position of which is not ascertained, shall, so far as the circumstances of the case admit, stop her engines, . . ." The argument for the "Kiangsu" was that that article did not apply because the fog-signals she heard were those of a vessel the position of which was "ascertained," inasmuch as when she heard the first fog-signal she judged the vessel from which it emanated to be an outward bound vessel, and thus "ascertained" her position to be on the south side of the channel, the proper side for an outgoing vessel. The position of the "Toyooka Maru" was not, in their lordships' opinion, "ascertained" within the meaning of the article. It was inferred, and the only data were that the fog-signals were heard on the "Kiangsu's" port bow; that outward bound vessels kept to the south side of the channel; and that it was improbable that a vessel would be crossing the fairway in a fog. An inference on those data was not, in their lordships' opinion, an ascertainment on which it was justifiable to disregard the precaution of stopping the engines enjoined by Art. 16. In order that the position of a vessel might be ascertained by another vessel within the meaning of the article she must be *known* by that other vessel to be in such a position that both vessels could proceed safely without risk of collision. In the whole of the circumstances their lordships were of opinion that both vessels should be held equally to blame.

Counsel: *Lewis Noad*, K.C., and *R. F. Hayward*, for the appellants; *A. T. Miller*, K.C., and *K. T. Carpmael*, for the respondents.

Solicitors: *Waltons & Co.*; *Botterell & Roche.*

[Reported by Charles Clayton, Esq., Barrister-at-Law.]

Chunbidya and Others *v.* King-Emperor.

Lord Atkin, Lord Wright, Lord Alness, Sir John Wallis, and Sir Shadi Lal. 6th December, 1934.

Criminal Law India Murder Conviction—Sentence of Transportation for Life—Appeal—Increased to Death Sentence—Jurisdiction.

This was the petition of Chunbidya and three others for special leave to appeal from the judgment of the High Court at Allahabad, dated the 31st July, 1934, which confirmed a judgment of the Additional Sessions Judge of Cawnpore at Banda, dated 14th August, 1933, convicting the petitioners of murder. The High Court on appeal enhanced the sentence of transportation for life, passed on the petitioners by the Additional Sessions Judge, and sentenced them to death. The question on the present petition was whether the High Court had jurisdiction so to enhance the sentence.

Lord Atkin, giving the judgment of the Board, said that it was unnecessary to refer to the facts except to state that the petitioners, with a number of others, assaulted a man. Having injured him severely, the petitioners held him down and cut off his right foot with an axe. They then left him and he died shortly afterwards. On appeal to the High Court by the petitioners from the conviction, the High Court, purporting to act under their power of revision, gave notice to the accused to show cause why the sentence should not be enhanced, and after the hearing, the sentence was ordered to be increased to death. It was plain that the High Court was acting under its power of revision, and that being so, it had complete jurisdiction, under s. 439 of the Code of Criminal Procedure, to act as it did. Leave to appeal was refused.

COUNSEL: *Sidney Smith*, for the petitioners; *W. Wallach*, for the Crown.

SOLICITORS: *Hy. S. L. Polak & Co.; Solicitor, India Office.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Court of Appeal.

In re William Adler & Co. Limited.

Slesser and Roche, L.JJ. 20th November, 1934.

COMPANY WINDING UP—VOLUNTARY LIQUIDATION—COMPULSORY ORDER—COSTS OF OPPOSING—PARTY AND PARTY TAXATION—FURTHER BILL—COMPANIES (WINDING UP) RULES, 1929 (S.R. & O. 1929, No. 612/L 16), r. 192 (1).

Appeal from a decision of Eve, J. (78 SOL. J., 839).

A resolution for the voluntary winding up of the company was passed in October, 1932. In November, 1932, an order was made on petition for its compulsory winding up, the voluntary liquidator appearing at the hearing to oppose. The usual order having been made as to costs, including the company's costs to be taxed as between party and party, the Registrar disallowed on taxation various items incurred by the liquidator between the resolution for winding up and the presentation of the petition. These included the costs of consultations by the liquidator with regard to opposing the petition, together with costs incurred in obtaining counsel's opinion. The solicitor to the liquidator then brought in a further bill including the items disallowed in the first bill, but which he claimed should be allowed on a solicitor and client taxation. Eve, J., held that the voluntary liquidator could deliver a bill including items not allowable on a party and party taxation, but which were properly incurred and should be paid out of the company's assets.

SLESSER, L.J., dismissing the appeal, said that such costs of consultations relating to the opposition of the petition, though disallowed under the heading "taxed costs of the petition, including the taxed costs of any person opposing on the petition whose costs are allowed by the court" in r. 192 (1) of the Companies (Winding up) Rules, 1929, might yet come within such "costs and expenses as the court may allow to the liquidator in such voluntary winding up," under the same sub-rule. If the liquidator's opposition was made to preserve the company's assets, the costs might be allowed under the rule. The allowing of costs was in the discretion of the court, and the Court of Appeal would not interfere.

ROCHE, L.JJ., agreed.

COUNSEL: *Gerald Slade; J. Lindon.*

SOLICITORS: *Stafford Clark & Co.; Lucien Fior.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

In re Dickens: Dickens *v.* Hawksley and Others.

Lord Hanworth, M.R., Romer and Maugham, L.JJ.

9th, 12th and 13th November and 7th December, 1934.

COPYRIGHT—WILL—"PRIVATE PAPERS"—PROPERTY IN MANUSCRIPT—PROCEEDS OF SALE OF COPYRIGHT—COPYRIGHT ACT, 1911 (1 & 2 Geo. 5, c. 46), s. 17 (1).

Appeal from a decision of Bennett, J. (78 Sol. J. 569).

The testator, Charles Dickens, who died in 1870, bequeathed "all my private papers whatsoever and wheresoever" to Georgina Hogarth, who died in 1917. His residuary estate, in terms, included "my copyrights." He had composed for his children a work known in his family as "The Life of Our Lord," which was unpublished at his death. In 1934, Lady Dickens, the executrix of his will and of that of Georgina Hogarth, assigned the copyright to the Associated Newspapers, Ltd. Bennett, J., held that the manuscript fell into the class "private papers," but that the proceeds of the sale of the copyright fell into the residuary estate of Charles Dickens.

Lord HANWORTH, M.R., in giving judgment, said that the bequest of the manuscript did not carry the copyright. An author's incorporeal copyright in an unpublished work did not necessarily pass with the corporeal paper: see *Millar* v. *Taylor*, 4 Burr 2303; *Caird* v. *Sime*, 12 A.C. 326; and *Jeffreys* v. *Boosey*, 4 H.L.C. 815, at p. 962). The handing over of private papers ought not to be taken as assigning the whole rights with them: see *Mansell* v. *Valley Printing Co.* [1908] 1 Ch. 567, at p. 573, and [1908] 2 Ch. 441; *Perceval* v. *Phipps*, 2 V. & B. 19; and *Gee* v. *Pritchard*, 2 Sw. 202. In this case the manuscript passed to Georgina Hogarth and the copyright remained in the personal representatives of Charles Dickens. The Copyright Act, 1911, applied. Its operation was retrospective; it was an Act beneficial and not prejudicial to existing rights. Section 17 (2) had replaced s. 3 of the Literary Copyright Act, 1842. It declared that the ownership of an author's manuscript after his death, where acquired under testamentary disposition, should be *prima facie* proof of the copyright being in the owner of the manuscript, but here the author had dealt with the copyright among his other copyrights and the *prima facie* proof was displaced. The question further arose whether the purchase price was to be held attributable to the manuscript or the copyright. It seemed equitable to divide the money into moieties, attributing one to each capacity under which Lady Dickens was enabled to deal with the subject matter of the sale. The order of Bennett, J., should be varied accordingly.

ROMER and MAUGHAM, L.JJ., agreed.

COUNSEL: *Croom-Johnson*, K.C., and *Francis James; Evershed*, K.C., and *Macgillivray; The Hon. Charles Russell.*

SOLICITORS: *Hempsons; Field, Roscoe & Co.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Barrett *v.* London General Insurance Co., Ltd.

Goddard, J. 13th November, 1934.

INSURANCE—MOTOR CAR—THIRD PARTY—ACCIDENT—JUDGMENT OBTAINED AGAINST ASSURED—POLICY ASSIGNED—MEANING OF "UNROADWORTHY—ONUS OF PROOF.

In this action the plaintiff, Kate Barrett, claimed £656 17s. 1d. from the defendants, London General Insurance Co., Ltd. The plaintiff sued as assignee of a policy of motor-car insurance issued by the defendants to Graham Coutts Tempest Stone, against whom the plaintiff had obtained judgment in a previous action under the Fatal Accidents Act, for £650 damages in respect of the death of her husband, Ernest William Barrett, who was knocked down and killed by Stone's tri-car on the 24th December, 1932. The policy insured Stone against "liability at law for compensation and costs that he might become liable to pay to a third person for death or bodily injury caused by him while driving . . . the insured car, of which he was the owner." The defendants relied on a clause in the policy which provided that: "This policy does not cover or insure against liability in respect of any accident whilst driving the motor-car in an unsafe or unroadworthy condition." They alleged that at the time of the accident the brakes of the tri-car were defective.

GODDARD, J., said that although when Part II of the Road Traffic Act, 1934, was in force it appeared that the point under discussion would no longer affect or prejudice the injured third party, the same question that fell for discussion in this case might still arise between the insured and the insurance company. The only defence relied on at the trial was that the defendants were not bound to indemnify Mr. Stone because the car was not in a safe or roadworthy condition. The burden of proving the exception was on the defendants. There was no doubt that the accident was caused by the foot-brake failing at the critical moment. The evidence given by the defendants as to the cause of the breaking was singularly unsatisfactory. At the moment of the accident the car was undoubtedly unsafe and unroadworthy. The question,

therefore, was whether the exception absolved the defendants from liability when all that they had proved was that at the moment of collision the vehicle was in such a condition. Both counsel said that they knew of no authority on the point, and no cases were cited. He thought that considerable assistance could be obtained from well-established principles in marine insurance law relating to seaworthiness. "Unroadworthy" seemed to imply the same state in relation to a road vehicle as "unseaworthy" did to a vessel. It was settled law that there was an implied warranty that a ship was seaworthy at the time of sailing, but there was no warranty that she should continue seaworthy throughout the voyage. That doctrine should apply to the clause under construction, and it should be read as meaning that the car must be roadworthy when it set out on its journey. Everyone knew that in a motor-car something might give or go wrong in the course of the journey which might temporarily, at any rate, put the car out of control. If in such circumstances the exception were to relieve the underwriters the indemnity given by the policy would be exceedingly precarious. The onus of proving unseaworthiness, and therefore of proving unroadworthiness, was on the underwriters: see *Davidson* v. *Burnand*, L.R. 4 C.P. 117. The defendants had failed to satisfy him that the car was unsafe or unroadworthy when it set out on its journey on the day in question, and he held, therefore, that the plaintiff was entitled to recover. Judgment for the amount claimed, with costs as awarded to a poor person.

COUNSEL: *Stuart Horner*, for the plaintiff; *G. W. F. de Winton* (*W. P. Doyle* with him), for the defendants.

SOLICITORS: *Biddle, Thorne, Welsford & Gait; Kingsley Wood, Williams & Co.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Probate, Divorce and Admiralty Division.

Kay (*orse.* **Gunson**) *v.* **Kay.**

Langton, J. 26th November, 1934.

NULLITY—PETITION ON GROUND OF INCAPACITY—WOMAN PETITIONER—THREE YEARS' COHABITATION—NON-CONSUMMATION—ABSENCE OF ATTEMPTS BY MAN—PRESUMPTION OF MAN'S INCAPACITY—DECREE.

This was a woman's petition for nullity on the ground of the incapacity of the man. The parties went through a ceremony of marriage in 1927, the petitioner being twenty-five and the respondent twenty-eight, and thereafter lived together for three years. The man made no attempt to consummate the marriage. The woman herself took no steps to that end, because, as she stated in evidence, she did not think it was any good if the man did not love her. However, she was anxious that the marriage should be consummated, and on leaving him, as she did in 1931, she told him that if ever they came together again he would have to be a normal husband to her. Evidence that the petitioner was *virgo intacta* was given. The respondent had failed to comply with the order for his medical examination. Counsel for the petitioner submitted that on the authorities the petitioner was entitled to a decree, the legal presumption being that if a woman were a virgin after three years of cohabitation non-consummation of the marriage was to be presumed to have been due to incapacity on the part of the man. Counsel referred to *N.* (*falsely called M.*) v. *M.* (1853), 2 Rob. Ecc. 625, at p. 635, and *Popard* (*falsely called Wybourn*) v. *Wybourn* (1828), 1 Hag. Ecc. 725.

COUNSEL: *F. L. C. Hodson.*

SOLICITORS: *Doyle, Devonshire & Co.*, for *Irwin, Mitchell, Kershaw & Co.*, Sheffield.

[Reported by J. F. COMPTON-MILLER, Esq., Barrister-at-Law.

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Thompson *v.* Thompson	820
Trollope, Geo., & Sons *v.* Martyn Bros.	568
Van den Berghs Ltd. . Clark (Inspector of Taxes)	568
Versicherungs und Transport Aktiengesellschaft Daugava *v.* Henderson	503
Volkers *v.* Volkers (Wingate cited) (on Answer)	785
Waring *v.* London and Manchester Assurance, Co., Ltd.	860

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Weight (Inspector of Taxes) *v.* Salmon	617
Wheeler *v.* Wirral Estates Ltd	802
White and Another *v.* Bambridge	734
Williamson *v.* Ough (Inspector of Taxes)	585
Winmill *v.* Winmill	536
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Parliamentary News.

Progress of Bills.

House of Lords.

Hamilton Burgh Order Confirmation Bill.
Read First Time. [11th December.
Registration and Regulation of Osteopaths Bill.
Read Second Time. [11th December.

House of Commons.

Aberdeen Corporation Order Confirmation Bill.
Read First Time. [6th December.
Depressed Areas (Development and Improvement) Bill.
Reported. [7th December.
Hamilton Burgh Order Confirmation Bill.
Read Third Time. [10th December.
Metropolitan Police (Borrowing Powers) Bill.
Read First Time. [10th December.
Ministry of Health Provisional Order (Guisborough Joint Small-pox Hospital District) Bill.
Read First Time. [11th December.

Questions to Ministers.

KING'S BENCH DIVISION (ROYAL COMMISSION).

Sir ARTHUR MICHAEL SAMUEL asked the Prime Minister whether he has given further consideration to the suggestion that an experienced county court judge should be added to the King's Bench Division Royal Commission, in view of the fact that the question of devolution of work from the High Court to the county court forms part of the terms of reference.

THE PRIME MINISTER: The question whether a county court judge should be placed upon the commission was considered very fully before the commission was established. Several members of the commission are very well acquainted, I am informed, with the work of the county court and the relations between that court and the High Court, and the commission can obtain such further assistance as they desire on this matter by requesting the attendance of any county court judges or other persons specially skilled in the matter. It is desirable to keep the numbers of the commission as small as possible, and I do not propose to enlarge them.
[6th December.

HOUSING (LEGISLATION).

Mr. KIRKWOOD asked the Secretary of State for Scotland when the Government intend to introduce new legislation to enable local authorities in Scotland to deal with houses to relieve overcrowding and to meet the normal growth of the population, in view of the general refusal of local authorities to build houses under the 1933 Act because of the inadequate subsidy.

Mr. SKELTON: It is hoped to present the Bill before the House rises at Christmas, so that it may be made available to Members during the Recess. [11th December.

ARTICLED CLERKS (STAMP DUTY).

Mr. POTTER asked the Chancellor of the Exchequer whether, having regard to the heavy cost of Stamp Duty payable on registered articles of clerkship in the legal profession, and to the cases of hardship arising therefrom, he can see his way to make a reasonable concession in respect thereof.

Mr. COOPER: I am unable to make any concession in this matter. [11th December.

CHARTERED INSTITUTE OF SECRETARIES.

Mr. Howard Foulds, J.P., has been elected president of the Chartered Institute of Secretaries in succession to Mr.W.H. Hislop. Sir Enoch Hill, J.P., and Mr. Christmas Evans have been elected vice-presidents. Lieut.-Col. Reginald Tristram Harper has been elected treasurer.

The Law Society.

INTERMEDIATE EXAMINATION.

The following candidates (whose names are in alphabetical order) were successful at the Intermediate Examination held on the 7th and 8th November, 1934. A candidate is not obliged to take both parts of the Examination at the same time.

FIRST CLASS.

James Herbert Alexander Paul de Cordova, Charles David Dulley, B.A. Oxon, Edward Herbert Frank, Roy Barker Hewitson, Dennis Patrick Holmes, B.A. Cantab., Peter Proud, Henry Soden-Bird, John Osmond Julius Stevens, John William Weston, Kenneth Berkeley Wills, John Yates.

PASSED.

John Granville Adams, B.A. Cantab., Walter Alker, Frederick Charles Alleé, John Valentine Allen, Felix Colin Anderson, Arthur John Borradaile Baily, John Barker, Alfred Colin Bennett, Peter Trevorian Best, B.A. Oxon, Lawrence Austin Biddle, B.A. Oxon, John MacKay Binney, Percy Frederick Broadhead, John Blamire Brown, Richard Henry Bryant, Edgar Samuel Buck, Geoffrey Francis Burndred, Moss Woolfe Burns, Peter Frederick Carter-Ruck, Leslie George Cartwright, Lionel Wilfred Cohen, Donald Bowden Dan, William Alfred Dawson, Geoffrey Everard Delafield, B.A. Cantab., James Arthur Chesterfield Downing, Neville William Driver, Peter Gibson Duke, Eric Cyril Boyd Edwards, Michael Francis John Emanuel, Bertram Charles Foster, Maurice Garton, John Scott Gofton, Edward Ambler Green, Edward Garner Halliwell, John Raymond Hampson, Stanley Reginald Charles Hayes, Kenneth William Frank Herbertson, Wilfrid Neil Holdgate, Ronald George Holmes, Norman Harris Hucker, Arthur d'Arcy Hughes, Roger Kennedy Fenwick Hutchings, Hugh Frederick Watt Kitchin, Eileen Marion Audrey Lambert, B.A. London, George Alexander Waldemar Lawrence, B.A. Cantab., Frank Dickinson Lawton, Bernard Cyril Lazarus, Cecil Evan Tenison Lloyd, Archibald St. Gerrans Lowry, George Graham Mackay, B.A. Oxon, Denis Alfred Marshall, William Louis Middleton, Donald Robert Moffat, Hedley George Morgan, Alan David Nunes Nabarro, James Cecil Norris, M.A. Cantab., Godfrey Elwin Owen, B.A. Oxon, John Edward Parkes, Lindsey Andrew Partridge, Wilfred Francis Pickering, Neville William Reed, Paul Whitfield Reed, Lewis William Roberts, Leslie Jack Robinson, Leonard Walter Robson, Philip Louis Rochwerg, Donald George Rogers, Stanley Alan Rollins, Claude Homer Ruffhead, Rainald Russell Salzman, Philip Hartley Samuel, Jasper Denis Scholey, Jesse Hubert Sherborne, Gerald Ashmead Sifton, Charles Alfred Brian Slack, Peter Edgar Gordon Smith, Harry Welling Street, Leslie Joseph Stroud, Frederick John Cooper Thwaites John Richard Tinn, Neville Roberts Tutin, John Ullock, Robert John Viall, Gordon Frederick Wall, Arthur Clifford Walter, Frank Brian Webb, Peter John Weston Wells, Arthur Vivian Williams, B.A. Oxon, John Lewis Williams, James Reginald Wilson, B.A. Cantab., Jack Woodcock.

The following candidates have passed the Legal portion only:—
Robert Vivian Stebbing Allen, B.A. Oxon, Bertram Avens, Jack Greenwood Bailey, Edwin Fred Barrett, Richard Lionel Bartelt, B.A. Cantab., Cyril Beach, Eric Robson Berryman, William Trevor Beynon, B.A. Oxon, Anthony Hubert Blake, Peter Maret Blandy, Geoffrey Oswald Douglas Bolton, Lyn Bowen, Cave Bradford, Norman Louis Braund, Gordon Herbert Brown, Peter Hammet Brown, William Henry Justin Browne, John Anthony Bucknill, B.A. Oxon, Ralph Stuart Buxton, John Moseley Channer, Donald Hugh Chapman, Ernest Hatton Chapman, John Geoffrey Hatherley Clarke, Thomas Frederic James Clarke, Alwyne Hartley Buchanan Coleridge, Antony Duke Coleridge, Arthur James Robert Collins, B.A. Oxon, John Joseph Collins, Andrew Stephen Charles Comber, Henry Owen Preston Cooke, Andrew Henry Row Copland, Roger Weston Corbett, Charles Percy Crawford, Gordon Cumming, William Dennis Curnock, Dunstan Michael Carr Curtis, B.A. Oxon, Hilary Curtis, Reginald Flint Davenport, John Davey, B.A. Cantab., Norris Gerald Davey, Alfred John Michael Maidlow Davis, B.A. Cantab., John Richard Francis Daw, Frederick Nunns Dickie, John Moffat Barrington Dore, Thomas Waterworth Drury, Patrick Merle Duggan, John Kidall Lloyd Edwards, Henry Marjoribanks Egerton, B.A. Cantab., Ivor Douglas Emanuel Elias, Herbert Bruce Elliott, Beryl Mair Rosser Evans, Roland Arthur Evans, B.A. London, Alcuin Edward Feeny, Alan McKenzie Fell, James Henry Fellowes, Norman William Stoakes Franks, Leslie James Fryer, Mowbray Garden, Raymond Frank Gardner, Cyril Joshua Goodman, Sidney Ernest Grice, Betty Harris, Jesse Lionel Harrison, Donald Wagstaffe Hay, Peter Nelson Hayes, John Michael

Herbert, B.A. Cantab., Maurice Herbst, Arnold Hertzberg, Tom Dalton Hiscoke, Gilbert Edward Hollingsworth, George Frederick Cameron Homewood, Derek Moreton Hornby, Arthur Kenneth Horner, George Albert Hotter, Thomas Clifford Hughes, John Owen Hunt, B.Sc. London, Robert John Ingleby, Evan Maitland James, David Beryl Jenkins, B.A. Cantab., Grosvenor Marson Johnson, Frank Haining Johnston, Alon Hermon Jones, John William Henry Knight, William Edward Lambert, Edward Lancaster, Robert Frederick Letts, Frank Thomas Lewis, John William Limmer, George Frederick Loewi, B.A. Cantab., Robert George Lord, Adrian Hubert Lovegrove, Colin McCulloch, Edward Willett MacGowan, Charles George Manser, Donald Mathieson, Jacob Mazure, M.A. Glasgow, James Anthony Russell Mead, Harold Noel Meek, John Patrick Kingdon Mitchell, Harry Kenneth Muff, Kenneth Clive Murdock, Robert Murray, Maurice Sidney Myers, Peter Hartopp Nash, B.A. Cantab., Leslie Mortimer Nathanson, Edwin George Oldham, James Owens, Robin Henry Palmer, Frederic Archibald Parker, M.A. Cantab., Barry Malcolm Patey, George Charles Boyce Peters, Richard Weston Parsons Peters, Ernest John Pickworth, John Lewin Poole, Peter Fulke Prideaux, Michael Logan Prior, Charles Henry Gilliatt Proctor, B.A. Cantab., John Francis Warre Rathbone, Clifford Rhodes, William Derick Richards, George Arthur Robert Richardson, Donald Owen Roberts, Graham Chatfield Roberts, John Templar Robinson, James Roe, William Francis Ryan, Philip Ronald Scott, Thomas Bodley Scott, B.A. Cantab., Francis George Shillitoe, Andrew Shirlaw, Stanley Sidebotham, Sydney Hyman Sive, Charles Alfred Smallwood, Brian Hazell Smith, Rupert Malise Speir, B.A. Cantab., Philip Coles Spooner, John Melior Stevens, Alan Gordon Stirk, Francis John Frederick Stone, Hubert Henri Micheal Sugg, Guy Reginald Summerhays, Clifford Louis Symons, Alfred Nelson Tatton, Philip Taylor, Raymond John Tearle, Eric Gerard Lumley Temple, B.A. Cantab., William Hilliard Beynon Thomas, Kenneth David Treasure, Douglas James Walker, Michael Sykes Walker, B.A. Cantab., Henry Charles Guy, Walmisley-Dresser, B.A. Cantab., Mary Percival Walsh, James David Watson, John Henry Weatherhead, Francis Wenger-Byrne, B.A. Cantab., Norman Jarrett Whitehead, Gerald Abson Whiteley, Lawrence John Wildman, Henry John Willey, William Bird Wilson, B.Sc. London, Gordon Micklem Winterbotham, B.A. Cantab., Allen Sidney Wisdom, Peter Watson Wood, Charles John Gordon Woolley, Eileen Gladys Wyatt.

No. of Candidates for Law, 428. Passed, 266.

The following Candidates have passed the Trust Accounts and Book-keeping Portion only :—

Robert Leslie Adam, Evelyn Lilian Adams, John Felix Frederick Calland Adams, Joseph Addison, B.A. Cantab., Paul Ainsworth, B.A. Oxon, Edmund Akenhead, Arthur Robert Alflatt, Douglas Allen, Jacob Amelan, LL.B. Manchester, George Bevis Appleby, Harry Armistead, Hilary John Bradley Armstrong, Walter Alan Armstrong, Peter Alfred Ascroft, Alan Ashcroft, James Austin, LL.B. London, Henry Godwin Awdry, B.A. Oxon, John Bailey, John Dickens Baker, John Druce Banning, B.A. Oxon, Joshua Geoffrey Barber-Lomax, B.A. Cantab., Robert Arthur Barnett, B.A. Cantab., Ivor Butler Barton, Ronald Williams Bate, B.A. Cantab., Thomas John Francis Bayfield, Philip Percival Bayley-Brown, B.A. Cantab., Ronald Walter Beasley, Samuel Leslie Beaumont, George Edwin Beeley, Robert Eric Beesley, Douglas McCandlish Bell, LL.B. Leeds, Edward Colby Bischoff, B.A. Oxon, Keith Gordon Blake, B.A., LL.B. Cantab., Elizabeth Kathleen Botteley, LL.B. Birmingham, Edward Bowles, George Farmer Brady, Harold Ian Bransom, Murray Bruce Brash, Sidney George Bristowe, Desmond Brooke-Hitching, B.A. Cantab., Ernest Brown, Robert Lowe Brown, Cyril Henry Whitehead Buckley, Robert Alger Buckley, Edward Dudley Burgess, Wilfred Burnstone, LL.B. Leeds, Leslie Moore Burridge, B.A., LL.B. Cantab., Peter Reginald Burton, Nelly Patricia Butterfield, Sidney Ernest Calvert, John Philip Camm, LL.B. Leeds, Reginald James Campbell, Walter Cane, B.A., LL.B. Cantab., Robert Mark Carpenter, John Philip Marshall Carr, LL.B. Manchester, Thomas Wilfrid Carter, Arthur John Chadwick, B.A. Cantab., Robert William Chaney, LL.B. Leeds, Frederick Aurel Révy Chapman, B.A. Cantab., Denis Chappell, LL.B. Birmingham, George Cheetham, LL.B. Manchester, Neville Ernest Chennells, Paul Cherrington, B.A. Cantab., Samuel Wesley Chrimes, Bernard Chronnell, LL.B. Manchester, Jacob Gerald Clarfelt, Kenneth Thomas Claridge, Charles Peter Clarke, LL.B. Birmingham, Ronald Biot Clayton, James Webster Clegg, William James Porteous Clements, B.A. Oxon, Thomas Hamilton Cochrane, B.Sc. Birmingham, Maurice Cohen, LL.B. Manchester, Robert Russell Cook, Reginald James Herbert Cooke, B.A. Oxon, Frederick Clive Copestake, William Hugh Corbett-Lowe, B.A. Oxon, Henry Alexander Corsellis, B.A. Cantab., Joseph Francis Coules, Leonard John Coxwell, Richard Blount Cross, B.A. Oxon, Lawrence Hildred Crowther, B.A., LL.B. Cantab., Andrew William Colin Cumming, Norman Cumpsty, LL.B. Liverpool, William George Darby, Nathan Davis, LL.B. Manchester, John Maxwell Day, John Kendel Daykin, LL.B. London, James Henry de la Rue, Stephen Denison, B.A. Oxon, Ewart Donald Dennis, John Newman Dennis, Charles Lynton Dodd, Kenneth Roy Dolleymore, Gerald Irving Dare Draper, Richard Edward Insley Drew, Geoffrey Richardson Duck, LL.B. Manchester, Antony Nevile Duke, Russell Arthur Durrant, Edgar Duschinsky, B.A. Oxon, Arthur Harold Manners Edney, Thomas Charles Justin Evans, Thomas Lister Farrar, B.A. Cantab., Malcolm Donald Featherman, LL.B. Leeds, Arnold Aaron Finer, Winston Fisher, Allen Gordon Fletcher, LL.B. Liverpool, Robin Fox, Denis Edward Frean, John Gerard Freeman, B.A., LL.B. Cantab., Leonard Vincent Fry, Cecil John Gale, LL.B. London, John Corscaden Gamble, Peter Gamon, B.A. Oxon, Ronald Thorneloe Gardner, John Wilson Gauntlett, Richard Stanley Gee, LL.B. Liverpool, David Harry Geller, Albert Philippe German-Ribon, B.A. Oxon, Stanley Mervyn Gibson, B.A. London, John Gordon Giddins, B.A. Cantab., John Robert Gillespie, B.A., LL.B. Cantab., Edward Willis Gocher, B.A. Cantab., Robert Martin Gold, B.A. Cantab., Sydney Eland Goldsmith, LL.B. Liverpool, Neil Murray Gordon, Lucie Marguerite Grant, Thomas Patrick Gray, Leslie Francis Graziani, Edward David Campbell Greene, B.A. Oxon, Geoffrey Bertram Grey, B.A. Cantab., Geoffrey Bridgman Grey, B.A. Oxon, Gerald Hall, John James Hammond, Maurice Campbell Hanna, B.A. Oxon, William Neil Hanna, LL.B. Liverpool, Stephen Whitfield Harland, B.A. Cantab., James Harrowell, Edward Fitz-Gerald Michael Hart, Cecil William Hatton, Michael Babington Charles Hawkins, Jack Valentine Hay, Robert Pitts Heaton, LL.B. Liverpool, Stephen John Henry, Geoffrey William Wilton Hepworth, Thomas Oswald Lascelles Heron, Richard Anthony Hill, B.A. Oxon, Oliver Lilburne Rieu Hills, B.A. Cantab., Robert Francis Hills, John Hingston, B.A. Oxon, Richard Henry Hinton, Michael Herbert Frank Holden, Francis George Holland, Geoffrey Brandreth Hooper, Cyril Edward Hoskinson, LL.B. Liverpool, Denis Hutton, Ormsby Issard-Davies, B.A. Cantab., Frank Dennis Jackson, Patrick Baddeley Jakeman, Samuel Morley Jenkins, LL.B. Wales, Russell Jessop, Thomas Sheraton Jewels, Albert Lewis Jones, B.A. Oxon, David Herbert Jones, Walter Scott Karran, B.A. Cantab., John Stobart Keith, B.A. Oxon, John Francis Kelham, John Michael Kenion, B.A. Cantab., Priestley Smith Kirby, Charles Lambert, Stanley Lancaster, LL.B. Manchester, Alan John Deverell Langford, B.A. Cantab., Henry John Lavington, Robert Norman Law, Maurice Brendan Drake Lee, B.A. Cantab., Stanley Lawrence Lees, B.A. Oxon, Arthur Oswald Lewis, B.A., LL.B. Cantab., William Anthony Lewthwaite, B.A. Cantab., John Neale Lindop, LL.B. Liverpool, George Alfred Lipscombe, Martin Hofland Lowry, B.A. Cantab., Rona McColl, LL.B. Liverpool, William McCulley, Joan McIlveen, William Angus McSkimming, James Elliot Doughty Macvie, William John Raleigh Madden, B.A. Cantab., David Maltz, Rollo Barratt Mangnall, Ernest Maxwell Mather, Stephen Matthews, B.A. Oxon, Richard Sturdy May, B.A. Cantab., George Francis Medlam, Leonard Charles Merrett, Charles Heathcote Wilson Messer, B.A. Cantab., Anthony Metcalf, John Metcalfe, B.A. Oxon, Gerard Joseph Ignatius Miller, B.A. Oxon, John Mortimer Moloney, Richard Westray More, B.A. Oxon, David Laurence Morgan, Edward Alexander Morling, John Douglas Morton, B.A., B.C.L. Oxon, Frederick Ralph Mottershead, Jack Jefferies Muckle, David Robert Scott Munday, Harry Eric Myers, Guy Darnley Naylor, B.A. Cantab., Henry Parker Needham, B.A. Oxon, LL.B. Birmingham, Valentine Roy Newbery, B.A. Cantab., Henry Kenneth Newcombe, Edward Henry Nichols, B.A. Cantab., Edward Hill Nicholson, John Windsor Nicholson, LL.B. London, Norman Nicholson, LL.B. London, John Nightingale, Ronald Makant Nuttall, B.A. Cantab., Charles O'Connor, James Tracey Ogden, Asher Oldschool, LL.B. London, George Wareing Drewry Ormerod, B.A. Oxon, Charles John Pack, Anthony Robert Morton Palmer, David Pelham Papillon, William Ronald Parker, LL.B. Manchester, John Harney Parsons, Godfrey Martin Ellis Paulson, B.A. Cantab., Claude Malcolm Payne, Arthur Bernard Pearce, James Reginald Pearson, LL.B. Manchester, Arthur Logan Petch, LL.B. Manchester, Susan Dorothy Pickering, Evelyn Bessie Pilkington, Joseph Pinder, Manuel Pollecoff, LL.B. Birmingham, Geoffrey Noel Porter, Norman Edward Porter, William Joseph Potts, Oliver Francis Price, B.A. Cantab., Charles Henry Priestley, B.A. Oxon, Patrick John Pritchard, Carey Francis Martin Randall, John Rice, James Rigby, Robert Humfrey Vere Rintoul, B.A. Oxon, Emrys Owain Roberts, B.A. Cantab., LL.B. Wales, Brian John Robson, B.A. Cantab., Percival Francis Rodwell, Philip Christopher Roscoe, William Henry Rowlands, George Frank Longsdon Royle, Samuel Eric Rubinstein, B.A. Cantab., Arthur Edwin

Russell, Noel Hett Russell, B.A. Oxon, Richard Salwey, B.A. Oxon, Laurence Cowley Sands, B.A. Cantab., Leslie Frederick Saunders, Hugh Waghorn Sayers, Neville Scorah, B.A., LL.B. Cantab., Louis Sellar, LL.B. London, Leonard Shibko, Derek Oakley Siddons, Michael George Sills, B.A. Cantab., Isidore Stanley Silverstone, Edward Henry Gordon Simmons, Arthur Lennard Singlehurst, Ralph Smalley, Maxwell Reney Smith, M.A. Oxon, Peter Gordon Smith, B.A. Cantab., John Walter Alexander McDowell Southern, David Gordon Spear, Lawrence Bond Spear, B.A. Oxon, Philip Robert Springall, Frederick Peter Standley, William Bodo Leopold Steinthal, B.A. Oxon, George Egbert Sinclair Stevenson, B.A. Cantab., Reginald John Thomas Stevenson, Geoffrey Nicholas Stone, Ronald Stott, Richard Gething Strachan, B.A. Oxon, Dennis Harry Horton Stubbs, Stewart Dare Stubbs, Peter Eric Studd, Paul Richardson Sylvester, William Edward Tanner, Hubert Ray Taylor, Michael James Taylor, Theodore Joseph Christopher von Sobbe Taylor, LL.B. Liverpool, Frederick Robert Errington Thairlwall, Norman Henry Thomas, B.A. Cantab., Samuel Arthur Joseph Thomas, Howard John Thomson, B.A. Cantab., George John Brain Thorne, Eric Thorniley, Robert Edward William Todhunter, Edward Hugh Townend, Humphrey Stuart Trembath, Diana Margaret Turner, Geoffrey Albert Turner, Harold Horsfall Turner, B.A., B.C.L. Oxon, Richard Hugh Williams Vaughan, B.A. Oxon, John Chivers Walker, Lawrence Frederick Waller, Edward Philip Patrick D'Arcy Walton, James Vernon Hibbert Wanklyn, Richard Kendall Warburton, LL.B. Liverpool, Bernard Wareing, LL.B. Birmingham, John Talbot Warwick, LL.B. London, Emanuel Wax, B.A. Oxon, Norman Arthur Webb, B.Sc. London, Robert Victor Bertram Webb, Roger Andrew Weeley, Henry Giffard Wells, Eric Cecil Knowles Weston, John Henry Mortimer Weston, B.A. Cantab., Arthur Philip Whitehead, Steven Ashley Whitteridge, Jeckiel Wiener, Frank Wilders, John Wolf Wilkins, James Henry Wilkinson, Sydney Harold Willetts, LL.B. Birmingham, Cyril Roy Williams, B.A. Cantab., George Vernon Williams, B.A. Oxon, LL.B. London, William Ronald Morgan Williams, B.A. Oxon, Edward Kenelm Williamson, Richard Hunt Williamson, B.A. Oxon, Robert Ray Witham, William Prowse Worden, Francis Edgar Charles Wood, LL.B. London, Thomas Neville Wood, Walter Wood, Charles William Patrick Woolcott, Alick Lowndes Wright, Geoffrey Cecil Wrigley, B.A. Cantab.

No. of Candidates for Trust Accounts and Book-keeping, 549.
Passed, 436.

Societies.

The Solicitors' Managing Clerks' Association.

TWENTY-NINTH FESTIVAL DINNER.

Mr. B. R. CECIL, the President, took the chair at the twenty-ninth Festival Dinner of this Association held at the Wharncliffe Rooms on Thursday, 6th December.

Lord THANKERTON, proposing the health of the Association, declared that, judging from the material before him, he found it a flourishing institution. He wished more power to its legal elbow. During the course of a man's life, he said, the law put him to many difficult tasks and his education never ceased—even on the Bench. Although it was thirty-five years since he himself had been called to the Scottish Bar, he had not yet forgotten the trials of law classes and the relief with which he had learned that he had successfully beaten the examiners. He hoped that he had known more than Robert Louis Stevenson, who, when he had finished, had known only two facts: that emphyteusis was not a disease and that stillicide was not a crime. There was no profession in which a man would see human nature in all its phases from so many different aspects, the most sordid and the finest. Clients were very varied, and it was a distinct advantage to the Bar that solicitors provided a very excellent buffer on many occasions between barristers and their irate clients. He sometimes wondered how a solicitor could stand some of the more extraordinarily repellent of his clients, and suggested that members of the Bar often thanked goodness that they could put their clients out of the door and say what a fine night it was.

Speaking of juries, he told a story of Lord Morris, who had been showing a guest a specimen of the administration of justice in Ireland. At a murder trial at the local assizes the evidence for the prosecution had been perfectly clear, and the jury had acquitted the prisoner. The guest asked whether this was what they called justice in Ireland. "No," answered Lord Morris, "we call it jurisprudence." Lord Thankerton also repeated Lord Coleman's story of a jury which acquitted a woman of stealing her husband's bank deposit receipt and of forging an indorsement to it, convicted her of his subsequent murder, and recommended her to mercy on the ground that the two former crimes had been the chief instigation of the third. On the subject of interruptions by judges, he said that as a young practitioner at the Scottish Bar he had found that interruptions by members of the Court of Session had been rather welcome than otherwise when they sought information or gave help. Extolling the romance of the law, he related three personal experiences in which he had received at the last moment telegrams which had turned the scale in the case he was conducting.

The PRESIDENT, in reply, narrated the story of how the Association had come into being. In the year 1892 it had been proposed by the Rules Committee of the Supreme Court to introduce a rule which would have the effect of depriving solicitors' managing clerks of their right of audience before the master and the judge in chambers. The proposal had caused a considerable stir amongst the "live wires" of the day; they had banded themselves together, held meetings, and made representations to the Lord Chancellor, the result of which had been that the rule had never found its way into the White or the Red Book—as he hoped it never would. Having achieved their object, however, the managing clerks had been very loth to discontinue their meetings, at which they had exchanged experience and discussed difficult points of practice and law. The Association had therefore been born, and had developed into a thriving and healthy institution with a membership extending into the provinces and a branch at Bournemouth. Its main object was still its educational work; during the past year lectures had been held as usual in the Inns of Court, and teaching classes had been instructed in the Lord Chief Justice's Court; every meeting had been well attended. Mr. Cecil then referred to the tragic death of the late secretary, Mr. Perry, who had perished at thirty-five in an aeroplane accident; he announced that a fund of over £1,000 had been raised and settled on trustees for the benefit of Mrs. Perry and her two children. He concluded with a tribute to the splendid team-work of his Council.

Sir PATRICK HASTINGS, K.C., proposing the health of His Majesty's Judges, said that Mr. Perry's death had been a personal loss to himself, for their late secretary had been on his way back to instruct Sir Patrick on a very important matter. As, however, Mr. Perry would have been the last to wish regret to cloud the cheer of the evening, he felt fully justified in passing on to a welcome duty. As he had to say everything pleasant he could about His Majesty's judges, his speech would be commendably brief. He knew little about the Scottish Bar and Bench, and trusted that he would never know much more. On the few occasions when he had been privileged to enquire into their procedure, he had found that he had immediately been "assoiled." What that expression meant he had never discovered, but he was sure that it was not altogether decent and respectable. Lord Thankerton's speech had, moreover, suggested that the Scottish Bar had peculiarities which were unknown in England. It obviously had a gift from a deity with a peculiar love for the Scottish Bar; whenever a Scotch barrister went into court prepared to conduct a brilliant—and Scotch—cross-examination, the Almighty presented him with a telegram. Hitherto Sir Patrick had believed that in the eyes of the Almighty the English and the Scotch were equal, but he had never in his life had put into his hands, before he began a cross-examination, a telegram which could have been of the slightest use to anybody.

In reference to juries, Sir Patrick said that he had had some slight experience of them and had come to the conclusion that while English judges were sometimes right and very often wrong, he could not remember a case in all his life in which after thinking the matter over he had come to the conclusion that the jury had been wrong. They might not have found directly in accordance with the judge's direction or with some erudite view of law, but from a common-sense point of view he was satisfied that twelve ordinary English people were better than one skilled English judge on questions of fact. In a word of kindly advice to two guests whose elevation to the Bench he predicted, he warned them not to be misled by Lord Thankerton: any judge who interrupted Sir Patrick did not meet with his approval. In a legal argument where he was not sure what he was going to say next, he welcomed any erudite exposition of the law, but when he asked a question in cross-examination and the learned judge asked "Why?" his only answer was "Why not?" He hoped that when these gentlemen were appointed to the Bench they would accept from him the present of a small notice in large letters to be affixed to their desks: "For God's sake keep quiet"!

Mr. Justice HAWKE, in reply, dealt with a criticism by Sir Patrick that Cornwall had no trees. There was, he affirmed, one tree in Cornwall, at Saltash on the western bank

of the Tamar. Cornishmen, on approaching England—as they sometimes did—took off their tails and hung them up on the tree. His was hanging there now, and he hoped to put it on again when he returned. He agreed that the decision on points of fact of twelve good men and women was worth a great deal more than the opinion of any one man.

Judge EARENGEY, also in reply, said that he spoke on behalf of the hardest-worked members of the judiciary. The County Court Bench, he said, could not hope for release at the witching hour of 4.15. There was, moreover, so much work to be done that there was little of that calm and dignified atmosphere which was found in the High Court. It was quite impossible to allow the slightest waste of time, and the judge, in order to finish his list, had to interfere over and over again. After court hours High Court judges, having spent an hour at their club and enjoyed a cocktail, could think about dinner and go home, or to the theatre, and enjoy themselves. County Court judges had to take books and papers home, together with the notes from which they had to read reserved judgments, and at midnight they would begin to read those statutory rules, orders and wonderful regulations that the legislators of the country in their wisdom put forward. Everything new that came along was inevitably put on to the County Court judges, for one reason only of which he could think: that they were noted for their patience.

Mr. RAYMOND EVERSHED, K.C., in proposing the health of the ladies, disclaimed the aid of the traditional methods, one of which searched for quotations to prove that ladies were all lying jades, and the other indulged in sentimentality. Neither method would, he thought, carry conviction in the present century, in which women had shown such active dissatisfaction with their biological status. Was there among the gathering, he asked, a bloodthirsty Clytemnestra? Who among them had murdered her husband in his bath, or had driven a tent-peg into a sleeping Sisera? Since the days of Lady Macbeth great strides had been made in the perfumery business, and ladies had started on the path to sophistication. Nevertheless, whatever might befall, the Association would remain, and in fifty years' time the ladies would still be, so to speak, managing clerks. He hoped for another invitation at that remote date.

Miss LETTICE VIVIAN, in reply, doubted whether as a member of the Bar she had status to speak on behalf of the ladies, but claimed that nature had equipped her better physically for the task than any man, however, eminent. Gathering that precedent demanded that an after-dinner speaker should tell a story—a precedent which to her dismay had been neglected by more than one speaker—she related that a little girl had been sent to the chemist by her mother to buy a hot-water bottle. In the course of time the bottle had burst, and badly scalded her mother. During the ensuing action the little girl was put into the witness-box and asked if and where she had bought the hot-water bottle, and what the chemist had said to her. She replied, "He said that the hot-water bottle was reasonably fit for its purpose and was of merchantable quality." "God bless my soul," exclaimed the judge, throwing himself back in his chair, "the very words of the Act!" "Yes, my lord," answered the little girl, "Section 14."

Mr. FRANCIS TAYLOR concluded the evening by proposing the health of the Chairman, and Mr. CECIL briefly replied.

Among those present were the Rt. Hon. Lord Thankerton, the Hon. Mr. Justice Bennett, the Hon. Mr. Justice Hawke, His Honour Judge Earengey, Mr. F. K. Archer, K.C., Mr. Harold Christie, K.C., the Hon. S. O. Henn Collins, K.C., Mr. Raymond Evershed, K.C., Sir Patrick Hastings, K.C., Mr. Fergus Morton, K.C., Mr. R. F. Roxburgh, K.C., Mr. W. Trevor Watson, K.C., Mr. J. Whitehead, K.C., Master P. W. Chandler, Master D. S. Gibbon, Master A. H. Holland, Master M. G. Willmott, Mr. Edward Eliot (Master of the City of London Solicitors' Company), Commander R. B. Millar, R.N. Mr. Registrar H. A. de C. Pereira, the Hon. Ewen Montagu, Sir Thomas Strangman, the Hon. Trevor Roberts, the Hon. David Watson, Mr. Harold Barker, Mr. A. J. Belsham, Mr. F. W. Beney, Mr. Cecil Bennett, Mr. Maurice Berkeley, Mr. Hugh Boileau, Mr. J. F. Bower, Mr. H. S. G. Buckmaster, Mr. Thomas Burgess, Mr. Dennis S. Chetwood, Mr. Victor Coen, Mr. W. Crocker, Mr. C. J. A. Doughty, Mr. R. Talbot Dyer, Mr. Herbert Hart, Mr. Hector Hillaby, Mr. F. L. C. Hodson, Mr. Milner Holland, Mr. Valentine Holmes, Mr. R. C. H. Horne, Mr. Noel Hutton, Mr. D. Ll. Jenkins, Mr. S. E. Karminski, Mr. W. Latey, Mr. R. F. Levy, Mr. J. S. Loe, Mr. Kenneth Macassey, Mr. M. D. Macduff, Mr. F. McMullan, Mr. John Mathias, Mr. Noel Middleton, Mr. C. Measor, Miss Notcutt, Mr. J. P. Pennycuick, Mr. G. Ivor Phillips, Mr. J. M. Pringle, Mr. Thomas G. Roche, Mr. B. Scourfield, Mr. Herbert Shanly, Mr. J. Smeaton, Mr. Colin Smith, Mr. C. G. Syrett, Mr. H. S. Syrett, Mr. R. A. Syrett, Mr. E. Blanshard Stamp, Mr. J. G. Strangman, Mr. Roger W. Turnbull, Mr. N. G. Touche and Mr. Philip Vos.

The Hardwicke Society.

A meeting of the Society was held on Friday, at 8.15 p.m., in the Middle Temple Common Room, the President (Mr. A. Newman Hall) in the chair. The society had the pleasure of welcoming General John Charteris, General Sir John Shea and General Walsh.

Major J. F. Hare (I.T.) moved: "That this House condemns Lloyd George's attack on Lord Haig as mistaken and unjustified." Mr. C. E. Scholefield opposed.

There also spoke General Charteris, Mr. Whittingham, Mr. Granville Sharp (ex-President), Mr. Menzies, the Hon. E. Howard, Mr. Ungoed Thomas (ex-President), Mr. Llewellyn Thomas, the Hon. F. P. Howard (Hon. Sec.), Mr. Cooke, General Walsh. The Hon. Mover having replied, the House divided, and the motion was carried by one vote.

Solicitors' Benevolent Association.

The usual monthly meeting of the Directors was held at No. 60, Carey-street, London, on the 5th December, 1934. Mr. T. G. Cowan (in the chair), Sir Edmund Cook, Messrs. C. S. Bigg (Leicester), E. E. Bird, G. S. Blaker (Henley), A. C. Borlase (Brighton), P. D. Botterell, A. J. Cash (Derby), N. T. Crombie (York), T. S. Curtis, E. F. Dent, R. Epton (Lincoln), A. G. Gibson, G. G. Keith, C. G. May, R. C. Nesbitt, A. B. Urmston (Maidstone), H. White (Winchester) and the Secretary were present. £1,297 were distributed in grants to necessitous cases, thirty-seven new members were elected, Mr. C. S. Bigg (Leicester) was elected Vice-Chairman for the ensuing year, Mr. F. S. Stancliffe and Mr. A. R. Moon were elected Directors at Manchester and Mr. A. North Hickley in London, and other business transacted.

Gray's Inn Debating Society.

The twenty-first meeting of the year was held in Gray's Inn Hall at 8.15 p.m., on Wednesday, 28th November, 1934, when the Annual Ladies' Night Debate took place, the President being in the chair. The motion for debate was: "That a central federal government on the lines proposed in the Report of the Joint Committee on Indian Constitutional Reform would be detrimental to India." The President having introduced and welcomed the two visiting speakers, the motion was proposed by Brig.-Gen. Sir Henry Page Croft, C.M.G., M.P. (a visitor) and opposed by The Rt. Hon. Lord Eustace Percy, M.P. (a visitor); Lt.-Col. R. V. K. Applin, D.S.O., M.P., spoke third, and The Most Hon. the Marquess of Dufferin and Ava spoke fourth, after which the proposer replied. The motion was carried by 134 votes to seventy-five, the number of members and guests present being about 250. A vote of thanks to the visiting speakers and to the Masters of the Bench was proposed by Mr. J. W. J. Cremlyn (ex-President), seconded by Miss J. M. Bernal Greenwood, M.B.E., and carried by acclamation. Refreshments, kindly provided by the Masters of the Bench, were served in the Pension Rooms after the debate.

University of London Law Society.

The annual meeting of the University of London Law Society was held at University College, Gower-street, last Tuesday evening, when the following officers were elected for the ensuing year: President, Mr. Michael O'C. Stranders, Barrister-at-Law; Secretary, Mr. C. Levy; Treasurer, Mr. C. Beslie; First year representative, Mr. Myer; Second year representative, Mr. Garnet; Third year representative, Mr. Gill; "Other interests" representative, Mr. Furtado. Winner of Best Speakers Cup, Mr. Michael O'C. Stranders; Runner-up for the above award, Mr. F. E. C. Wood.

Law Students' Debating Society.

At a meeting of the Society, held at The Law Society's Court Room, on Tuesday, 4th December, 1934 (Chairman, Mr. R. J. A. Temple), the subject for debate was: "That the case of *Withers* v. *General Theatre Corporation Ltd.* [1933] 2 K.B. 537, was wrongly decided." Mr. E. R. Wiltshire opened in the affirmative; Mr. H. F. C. Morgan opened in the negative; Mr. D. A. Cowdry seconded in the affirmative; Mr. G. A. Russo seconded in the negative. The following also spoke: Messrs. J. E. Terry, G. M. Parbury, R. Morgan, M. C. Batten, C. J. de S. Root, P. W. Iliff, A. C. Dowding, P. H. North Lewis, W. M. Pleadwell, and D. B. Rubie. The opener having replied, and the Chairman having summed up, the motion was lost by eight votes.

Union Society of London.

(CENTENARY YEAR.)

A meeting of the Society was held on Wednesday, 12th December, at 8.15 p.m., in the Middle Temple Common Room, the President (Mr. Alun Llewellyn) being in the chair. Mr. Mountain proposed the motion: "That the present arrangements for the safety of pedestrians on the roads are inadequate." Mr. A. Ward opposed. There also spoke Mr. Marvin, Mr. Russell-Clarke, Capt. Ellershaw, the Hon. Secretary (Mr. E. P. Rendle), Mr. Darrell, the President, Mr. Newton, Mr. Duff and Mr. Fraser. The hon. proposer having replied, the House divided, and the motion was carried by three votes.

Legal Notes and News.

Honours and Appointments.

Mr. W. STALEY BROOKES, LL.M., solicitor, Deputy Town Clerk, Barking, has been appointed Solicitor and Clerk of Southall-Norwood Urban District Council in succession to Mr. Herbert E. Burwell, who is retiring early next year. Mr. Brookes was admitted a solicitor in 1927.

Mr. CLIFFORD HEYWORTH, Deputy Town Clerk of Bromley, has been appointed Clerk to the Chingford Urban District Council. Mr. Heyworth was admitted a solicitor in 1929.

Mr. EDWARD S. SMITH, Assistant Solicitor, Luton Corporation, has been appointed Deputy Town Clerk to the County Borough of Dudley. Mr. Smith was admitted a solicitor in 1932.

MIDLAND BANK EXECUTOR AND TRUSTEE COMPANY, LIMITED.

The Midland Bank Executor and Trustee Company Limited has just completed the first quarter of a century of its existence, a period during which it has steadily enlarged the scope of its business. It was incorporated on 7th December, 1909, as an affiliation of the Midland Bank Limited, which holds the whole of its shares. The authorised and subscribed capital of the Company is £1,000,000, consisting of 200,000 shares of £5, of which £200,000, or £1 per share, is paid up. The reserve fund stands at £100,000 and, according to the last balance sheet, which is printed with the annual report of the Midland Bank, there is an undivided balance of £101,000 on profit and loss account.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

DATE.	EMERGENCY ROTA.	APPEAL COURT No. 1.	GROUP I. MR. JUSTICE EVE. Witness. Part I.	MR. JUSTICE BENNETT. Witness. Part II.
	Mr.	Mr.	Mr.	Mr.
Dec. 17	Hicks Beach	Ritchie	*Blaker	*Hicks Beach
„ 18	Andrews	Blaker	*Jones	Blaker
„ 19	Jones	More	*Hicks Beach	*Jones
„ 20	Ritchie	Hicks Beach	Blaker	Hicks Beach
„ 21	Blaker	Andrews	*Jones	*Blaker
„ 22	More	Jones	Hicks Beach	Jones

	GROUP I. MR. JUSTICE CROSSMAN. Non-Witness.	MR. JUSTICE CLAUSON. Non-Witness.	MR. JUSTICE LUXMOORE. Witness. Part II.	MR. JUSTICE FARWELL. Witness. Part I.
	Mr.	Mr.	Mr.	Mr.
Dec. 17	Jones	More	Ritchie	*Andrews
„ 18	Hicks Beach	Ritchie	*Andrews	*More
„ 19	Blaker	Andrews	More	*Ritchie
„ 20	Jones	More	*Ritchie	*Andrews
„ 21	Hicks Beach	Ritchie	Andrews	More
„ 22	Blaker	Andrews	More	Ritchie

* The Registrar will be in Chambers on these days, and also on the days when the Court is not sitting.

THE CHRISTMAS VACATION will commence on Monday, the 24th day of December, 1934, and terminate on Saturday, the 5th day of January 1935, inclusive.

A UNIVERSAL APPEAL

TO LAWYERS: FOR A POSTCARD OR A GUINEA FOR A MODEL FORM OF BEQUEST TO THE HOSPITAL FOR EPILEPSY AND PARALYSIS, MAIDA VALE, W.9.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 20th December, 1934.

	Div. Months.	Middle Price 12 Dec. 1934.	Flat Interest Yield. £ s. d.	‡Approximate Yield with redemption £ s. d.
ENGLISH GOVERNMENT SECURITIES				
Consols 4% 1957 or after	FA	118	3 7 10	2 17 8
Consols 2½%	JAJO	90xd	2 15 7	—
War Loan 3½% 1952 or after	JD	107¼	3 5 3	2 19 6
Funding 4% Loan 1960-90	MN	118¾	3 7 4	2 18 7
Funding 3% Loan 1959-69	AO	104	2 17 8	2 15 7
Victory 4% Loan Av. life 29 years	MS	117¼	3 8 3	3 1 9
Conversion 5% Loan 1944-64	MN	123½	4 1 0	2 1 9
Conversion 4½% Loan 1940-44	JJ	113	3 19 8	2 2 11
Conversion 3½% Loan 1961 or after	AO	109½	3 3 11	2 19 6
Conversion 3% Loan 1948-53	MS	105½	2 16 10	2 10 0
Conversion 2½% Loan 1944-49	AO	101½	2 9 3	2 6 5
Local Loans 3% Stock 1912 or after	JAJO	96¾xd	3 2 0	—
Bank Stock	AO	379½	3 3 3	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	91¼xd	3 0 1	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	96xd	3 2 6	—
India 4½% 1950-55	MN	113½	3 19 4	3 6 10
India 3½% 1931 or after	JAJO	97xd	3 12 2	—
India 3% 1948 or after	JAJO	89xd	3 7 5	—
Sudan 4½% 1939-73 Av. life 27 years	FA	124	3 12 7	3 3 4
Sudan 4% 1974 Red. in part after 1950	MN	116	3 9 0	2 15 0
Tanganyika 4% Guaranteed 1951-71	FA	116	3 9 0	2 15 0
L.P.T.B.4½% "T.F.A." Stock 1942-72	JJ	111½xd	4 0 9	2 13 7
COLONIAL SECURITIES				
Australia (Commonw'th) 4% 1955-70	JJ	109xd	3 13 5	3 7 10
*Australia (C'mm'nw'th) 3¾% 1948-53	JD	104	3 12 1	3 7 8
Canada 4% 1953-58	MS	113	3 10 10	3 1 9
*Natal 3% 1929-49	JJ	100xd	3 0 0	3 0 0
*New South Wales 3½% 1930-50	JJ	100xd	3 10 0	3 10 0
*New Zealand 3% 1945	AO	100	3 0 0	3 0 0
Nigeria 4% 1963	AO	114	3 10 2	3 5 0
Queensland 3½% 1950-70	JJ	102xd	3 8 8	3 6 7
South Africa 3½% 1953-73	JD	107	3 5 5	2 19 10
*Victoria 3½% 1929-49	AO	101	3 9 4	—
CORPORATION STOCKS				
Birmingham 3% 1947 or after	JJ	96xd	3 2 6	—
*Croydon 3% 1940-60	AO	100	3 0 0	3 0 0
Essex County 3½% 1952-72	JD	105xd	3 6 8	3 2 8
*Hull 3½% 1925-55	FA	102	3 8 8	—
Leeds 3% 1927 or after	JJ	96xd	3 2 6	—
Liverpool 3½% Redeemable by agreement with holders or by purchase	JAJO	107xd	3 5 5	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	89	2 16 2	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	96	3 2 6	—
Manchester 3% 1941 or after	FA	98	3 1 3	—
*Metropolitan Consd. 2½% 1920-49	MJSD	100	2 10 0	2 10 0
Metropolitan Water Board 3% "A" 1963-2003	AO	97	3 1 10	3 2 1
Do. do. 3% "B" 1934-2003	MS	98½	3 0 11	3 1 1
Do. do. 3% "E" 1953-73	JJ	102	2 18 10	2 17 2
Middlesex County Council 4% 1952-72	MN	113	3 10 10	3 1 0
† Do. do. 4½% 1950-70	MN	116	3 17 7	3 4 1
Nottingham 3% Irredeemable	MN	97	3 1 10	
Sheffield Corp. 3½% 1968	JJ	107	3 5 5	3 3 1
ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS				
Gt. Western Rly. 4% Debenture	JJ	116	3 9 0	—
Gt. Western Rly. 4½% Debenture	JJ	127½	3 10 7	—
Gt. Western Rly. 5% Debenture	JJ	133½	3 14 11	—
Gt. Western Rly. 5% Rent Charge	FA	133½	3 14 11	—
Gt. Western Rly. 5% Cons. Guaranteed	MA	130½	3 16 8	—
Gt. Western Rly. 5% Preference	MA	115½	4 6 7	—
Southern Rly. 4% Debenture	JJ	113½xd	3 10 6	—
Southern Rly. 4% Red. Deb. 1962-67	JJ	112xd	3 11 5	3 6 9
Southern Rly. 5% Guaranteed	MA	131½	3 16 1	—
Southern Rly. 5% Preference	MA	116	4 6 2	—

*Not available to Trustees over par. † Not available to Trustees over 115.
‡In the case of Stocks at a premium, the yield with redemption has been calculated as at the earliest date; in the case of other Stocks, as at the latest date.

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Printed in Great Britain by THE SOLICITORS' LAW STATIONERY SOCIETY, LTD., at "Oyez House, Fetter Lane, London, E.C.4, and Published at 29, Breams Buildings, E.C.4 ('Phone: Holborn 1853) Agents—The United States and Canada: The Carswell Co., Ltd., 145-149, Adelaide Street West, Toronto 2, Canada; India: Higginbothams, Publishers, Mount Road, Madras, Australia and New Zealand: "The Times," 255a, George Street, Sydney, N.S.W. Saturday, 15th December, 1934.